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Dr. JP Richardson, Superintendent  
Matt Crawford, President  
Stephen Skinner, Vice President  
Everigester Adams, Jr., Secretary  
Kip Amick, Member  
Karen McIlwain, Member  
Dennis Williams, Member  
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Tatum Independent School District Board of Trustees  
510 Crystal Farms Rd.  
Tatum, TX 75691

*Via E-mail and Hard Copy*

**Re: Request to Re-Enroll Michael Trimble and Kellan Cox in School and to Stop Retaliating Against Them in Violation of the First Amendment**

Dear Superintendent Richardson and the Tatum ISD School Board:

We write in support of Edwina Woodley and Kambry Cox, the guardians of Michael Trimble and Kellan Cox. We are deeply concerned with the unlawful expulsion of Michael and Kellan, who are only four and five years old, and the allegations that these students have been retaliated against because their guardians have engaged in speech protected by the First Amendment. Our highest priority is to ensure that Michael and Kellan can return to school to avoid the immediate and harmful effects of denying them educational opportunities. Once the District remedies this urgent issue, we also seek to ensure that these students are afforded equal access to an education at Tatum ISD, regardless of their race or sex.

As you know, children under the age of 10 may not be expelled in Texas unless they bring a firearm to school.<sup>1</sup> Tatum ISD's own policies recognize this prohibition by forbidding any expulsion of students under the age of 10.<sup>2</sup> Despite the existence of these rules, administrators at Tatum ISD wrongfully expelled Michael and Kellan without any legal basis. Because this decision could lead to devastating effects on these students' long-term success and

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<sup>1</sup> Tex. Educ. Code Ann. § 37.007.

<sup>2</sup> FOD (Legal), Tatum ISD (issued Oct. 11, 2017) at 1, *available at* [https://pol.tasb.org/Policy/Download/1042?filename=FOD\(LEGAL\).pdf](https://pol.tasb.org/Policy/Download/1042?filename=FOD(LEGAL).pdf).

well-being, we urge you to immediately reenroll these students in school in order to provide them with the full and equal education that they are entitled to under the law.

### **Factual Background**

The Board is already aware of many of the relevant facts, so they are only briefly summarized here. Michael Trimble is a four-year-old Black student at Tatum Primary School who wears a natural Black hairstyle. Kellan Cox is a five-year-old Black student at Tatum Primary School who wears cornrows, braids, and sometimes a “puff ball,” which are all natural Black hairstyles.

On August 12, 2019, the Superintendent of Tatum ISD told Michael’s grandmother, Randi Woodley, that Michael would need to cut his hair or braid it up. In response, Ms. Woodley criticized the District’s dress and grooming policy on social media. On the first day of school, August 14, Ms. Woodley tried braiding Michael’s hair, but the District still considered it too long and Michael was eventually sent to in-school suspension (ISS). As a four-year-old who was eager to start preschool, Michael hated being in ISS. Some nights he broke down crying to his grandmother and told her that he doesn’t “have any friends in the office.”

Similarly, Kellan received a note on the second day of school that his natural Black hairstyle was out of dress code. Several weeks later, Kellan was placed in ISS for “noncompliance” with the grooming code. While this five-year-old was in ISS, he was given punishment assignments in a folder that said “busy work.” He cried at night to his mom, Kambry Cox, saying that he no longer wanted to go back to school.

Following these incidents, Ms. Woodley started a petition to change several provisions of Tatum ISD’s dress and grooming policy. On September 9, Ms. Woodley, Ms. Cox, and other parents and guardians attended the Tatum ISD School Board Meeting to voice their concerns about the discriminatory effects of the District’s dress and grooming code. Because this situation involved disciplining two very young children, the story was picked up by both local and national news organizations, including *Fox News* and *CNN*. Ms. Woodley, Ms. Cox, and other Tatum parents continued urging the School Board to change select provisions of the dress and grooming policy by organizing a peaceful protest near the school on September 20.

Only three days later, on September 23, Ms. Cox was notified by the District that Kellan would be “unenrolled” in the District and would no longer be allowed to go to school. Three days later, on September 26, Ms. Woodley was also informed by Tatum ISD attorney Heather Castillo that the District would be unenrolling Michael from the District. Apart from letters provided to the students’ guardians, the District did not provide either student with any expulsion hearing, due process, or opportunity to be heard.

## **Legal Concerns**

Tatum ISD currently has an opportunity to rectify the wrongful and unlawful expulsions of Michael Trimble and Kellan Cox. If the District does not take action, however, it is exposing itself to significant legal liability under the U.S. Constitution, federal and state laws, and the District's own policies.

### **1. Wrongful Expulsion and Denial of Due Process**

Because Tatum ISD has no legal authority to expel Michael Trimble or Kellan Cox, it should immediately reenroll them in the District. Children in Texas under the age of 10 may not be expelled unless they bring a firearm to school.<sup>3</sup> Tatum ISD policies recognize this prohibition by forbidding any expulsion of students under the age of 10.<sup>4</sup> Even if a student *is* eligible for expulsion, District policies require that the “board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student’s parent or guardian is invited, in writing, to attend.”<sup>5</sup> When Tatum ISD chose to expel Michael Trimble and Kellan Cox, it had no authority to do so. Neither student brought a firearm to school and the District has never even suggested that to be the case. Nor did the District provide any hearing, notice, or other due process protections before wrongfully depriving these four and five-year-old students of an education on par with other students.

Tatum ISD’s actions are not only unlawful and harmful to these two very young children, but are also part of a worrying trend in which young Black males are expelled from school at a far higher rate than their female and non-Black peers. In 2016, the U.S. Department of Education and Department of Health and Human Services reported that “stark racial and gender disparities” exist in early childhood disciplinary practices—“with young boys of color being suspended and expelled much more frequently than other children.”<sup>6</sup> The suspension and expulsion of young Black boys from school leads to harmful, lifelong effects. “Young students who are expelled or suspended are as much as 10 times more likely to drop out of high school, experience academic failure and grade retention, hold negative school attitudes, and face incarceration than those who are not.”<sup>7</sup>

It is also well-documented here in Texas that young Black boys receive harsh disciplinary consequences at a higher rate than their peers.<sup>8</sup> Even when school districts do not perceive their

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<sup>3</sup> Tex. Educ. Code Ann. § 37.007.

<sup>4</sup> FOD (Legal), Tatum ISD at 1.

<sup>5</sup> *Id.* at 6.

<sup>6</sup> Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings, U.S. DEP’T OF EDUCATION AND DEP’T OF HEALTH AND HUMAN SERVICES (Feb. 12, 2016), *available at* <https://www2.ed.gov/policy/gen/guid/school-discipline/policy-statement-ece-expulsions-suspensions.pdf> (**Exhibit A**).

<sup>7</sup> *Id.* at 3.

<sup>8</sup> Diane Ewing, *Suspensions & Expulsions in Early Grades: A Problem Texans Can Fix With Strategies to Support Teachers and Students*, TEXANS CARE FOR CHILDREN (April 2017), at 3 (**Exhibit B**).

actions as overtly racist, “implicit bias can subconsciously influence how a teacher or administrator responds” to different situations.<sup>9</sup> Researchers at Yale University determined that preschool teachers spent more time monitoring the behavior of Black children, especially Black boys, based on implicit bias of which they were not consciously aware.<sup>10</sup> According to the NAACP Legal Defense Fund, “[w]hile the biases themselves may never be eliminated, their effects in schools can be limited through a variety of interventions.”<sup>11</sup> Among these interventions is “empathic discipline,” in which educators examine situations from the student’s perspective, thereby allowing them to “limit the effects of implicit bias” and unintentional racial discrimination.<sup>12</sup> This is what we ask you to do here. By examining this situation from the students’ perspective, the devastating and long-term effects of them being wrongfully expelled from school at such an early age become impossible to ignore.

## 2. Free Speech and Non-Retaliation

Apart from having no legal authority to expel these students, Tatum ISD may also not take any adverse action against them in retaliation for the students or their guardians engaging in constitutionally protected speech. The freedom of speech secured by the First Amendment guarantees “the unfettered interchange of ideas for the bringing about of political and social changes desired by the people.”<sup>13</sup> Accordingly, “speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.”<sup>14</sup>

Here, Ms. Woodley and Ms. Cox engaged in constitutionally protected speech by posting on social media, speaking with members of the press, petitioning the Tatum ISD school board to change its policies, and organizing peaceful protests to challenge discriminatory policies in the dress and grooming code.<sup>15</sup> Shortly thereafter, the District took action against them by expelling both of their students from school. Even if the District had any legal authority to do this—which it did not—the District’s actions are nevertheless unconstitutional because they constitute impermissible retaliation based on the guardians’ speech.

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<sup>9</sup> *Id.* at 2.

<sup>10</sup> Walter Gilliam, et al., *Do Early Educators’ Implicit Biases Regarding Sex and Race Relate to Behavior Expectations and Recommendations of Preschool Expulsions and Suspensions?*, YALE UNIVERSITY CHILD STUDY CENTER (Sept. 28, 2016), at 2 (**Exhibit C**).

<sup>11</sup> *Locked Out of the Classroom: How Implicit Bias Contributes to Disparities in School Discipline*, NAACP Legal Defense Fund (2017), at 3 (**Exhibit D**).

<sup>12</sup> *Id.*

<sup>13</sup> *Roth v. United States*, 354 U.S. 476, 484 (1957).

<sup>14</sup> *Connick v. Myers*, 461 U.S. 138, 145 (1983).

<sup>15</sup> “The First Amendment protects political association as well as political expression.” *Buckley v. Valeo*, supra, 424 U.S. at 11. “There can no longer be any doubt that freedom to associate with others for the common advancement of political beliefs and ideas is a form of ‘orderly group activity’ protected by the First and Fourteenth Amendments.” *NAACP v. Button*, 371 U.S. 415, 430. These protections reflect our “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

Unconstitutional First Amendment retaliation occurs when someone’s speech is a “motivating factor” in the actions that a government entity takes against them.<sup>16</sup> “Close timing between a . . . protected activity and an adverse [] action can be a sufficient basis for a court to find a causal connection required to make out a *prima facie* case of retaliation.”<sup>17</sup> Here, the timing of the District’s actions against Michael Trimble and Kellan Cox is highly suspect, since their expulsions occurred just days after their guardians spoke to the media and engaged in a peaceful protest. That the expulsions are unsupported by any facts warranting expulsion underscore the suspicious nature of the District’s actions. Even if the District had some other legitimate motive for its actions, the decision to expel these students may still be unconstitutional based “upon a chronology of events from which retaliation may plausibly be inferred.”<sup>18</sup>

Because of these concerns, we urge the District to remedy any constitutional violations by immediately reenrolling Michael Trimble and Kellan Cox in school. While these students receive the education they are entitled to, the District can then listen to the concerns of the students’ guardians and community members, who have a constitutional right to speak freely to the School Board and petition the District to change its policies.

### **3. Discriminatory Policies in the Dress and Grooming Code**

As I stated at the outset, the highest priority of the ACLU of Texas is to ensure that Michael Trimble and Kellan Cox can return to school to avoid the immediate and harmful effects of denying them educational opportunities. Once the District remedies this urgent issue, we look forward to working with Tatum ISD to address a few select provisions of the dress and grooming code that allow for discrimination on the basis of sex and race.

As currently written, Tatum ISD’s dress and grooming code sets forth several separate requirements for students on the basis of sex. Although courts in Texas have historically allowed different dress and grooming codes for male and female students, recent decisions across the country have found sex-separated standards to violate the Equal Protection Clause and Title IX.<sup>19</sup> Dress and grooming codes may also not discriminate based on race. In the Fifth Circuit, which presides over Texas, treating students differently based on “ethnic hair styles” has been

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<sup>16</sup> *Mooney v. Lafayette Cty. Sch. Dist.*, 538 F. App’x 447, 454 (5th Cir. 2013).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *See, e.g., Hayden ex rel. A.H. v. Greensburg Community School Corporation*, 743 F.3d 569, 571 (7th Cir. 2014) (declaring a school district policy requiring male students but not female students to wear short hair to violate the Equal Protection Clause and Title IX); *Sturgis v. Covich County School District*, No. 3:10-CV-455-DPJ-FKB, 2011 WL 4351355, at \*1 (S.D. Miss. Sept. 15, 2011) (requiring boys to wear tuxedos and girls to wear drapes stated a violation of the Equal Protection Clause); *Peltier v. Charter Day Sch., Inc.*, 384 F. Supp. 3d 579, 595 (E.D.N.C. 2019) (requiring girls to wear skirts was an impermissible sex classification based on outdated stereotypes in violation of the Equal Protection Clause).

recognized as a form of racial discrimination in violation of the Equal Protection Clause and Title VI.<sup>20</sup>

Apart from likely violating federal law, a sex-separated grooming code is also at odds with the District's policies on nondiscrimination, and it undermines the mission and values of the District. Tatum ISD's mission is "to produce graduates, each having attained high levels of academic achievement, a respect for all people and a belief in their own ability to be successful in a rapidly changing world."<sup>21</sup> Part of this "respect for all people" is an understanding that people wear their hair in different ways and that not all students are able to conform to stereotypical notions of masculinity and femininity. For a variety of reasons, some male students wear long hair as an essential element of who they are. Many male students who are Jewish, Sikh, or Rastafarian may wear long hair as part of their sincerely held religious beliefs. Black and Native American students sometimes wear long hair as part of their culture and ethnic heritage. And transgender, non-binary, and gender nonconforming students sometimes wear long hair as they are exploring and expressing their gender identity. For Tatum ISD to force these students to fit a certain stereotype hurts their academic success and severely undermines the diversity that the District seeks to promote.

The Tatum ISD Board of Trustees has already recognized these harms by adopting an FFH (Local) that specifically protects students from being treated differently based on "the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity."<sup>22</sup> The District should comply with its FFH by refusing to force students to abide by gender stereotypes and removing these stereotypes from the dress and grooming code altogether.

## **Conclusion**

We recognize that a change to Tatum ISD's dress and grooming code cannot happen overnight. But reinstating these students can be—and must be—immediate: Michael Trimble and Kellan Cox are being harmed every day that they are denied equal access to educational opportunities. We therefore ask that you reinstate these students without further delay in school and allow them to attend class with their peers while we continue discussing the dress and grooming code. We look forward to working with you to ensure that Tatum ISD's dress and grooming code conforms to federal law and school district policies while also reflecting the values and mission of the District.

We will also be attending the school board meeting on Monday and are happy to answer any questions that you have. Sincerely,



Brian Klosterboer  
Skadden Fellow and Attorney, ACLU of Texas

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<sup>20</sup> See *Fennell v. Marion Indep. Sch. Dist.*, 804 F.3d 398, 415 (5th Cir. 2015).

<sup>21</sup> Mission Statement of Tatum ISD (2019), available at <http://www.tatumisd.org/?PN=AboutUs>.

<sup>22</sup> FFH (Local) at 3.

# **Exhibit A**



**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
U.S. DEPARTMENT OF EDUCATION**

**POLICY STATEMENT ON EXPULSION AND SUSPENSION POLICIES IN EARLY  
CHILDHOOD SETTINGS**

**PURPOSE**

The purpose of this policy statement is to support families, early childhood programs, and States by providing recommendations from the U.S. Departments of Health and Human Services (HHS) and Education (ED) for preventing and severely limiting expulsion and suspension practices in early childhood settings.<sup>1</sup> Recent data indicate that expulsions and suspensions occur at high rates in preschool settings.<sup>2,3,4</sup> This is particularly troubling given that research suggests that school expulsion and suspension practices are associated with negative educational and life outcomes.<sup>5, 6, 7</sup> In addition, stark racial and gender disparities exist in these practices, with young boys of color being suspended and expelled much more frequently than other children.<sup>2,3,4</sup> These disturbing trends warrant immediate attention from the early childhood and education fields to prevent, severely limit, and work toward eventually eliminating the expulsion and suspension – and ensure the safety and well-being – of young children in early learning settings.<sup>8</sup>

This joint HHS and ED policy statement aims to:

- Raise awareness about expulsion, suspension, and other exclusionary discipline practices in early childhood settings, including issues of racial/national origin/ethnic and sex disparities and negative outcomes for children associated with expulsion and suspension in the early years;
- Provide recommendations to early childhood programs and States on establishing preventive, disciplinary, suspension, and expulsion policies and administering those policies free of bias and discrimination;
- Provide recommendations on setting goals and using data to monitor progress in preventing, severely limiting, and ultimately eliminating expulsion and suspension practices in early childhood settings;
- Highlight early childhood workforce competencies and evidence-based interventions and approaches that prevent expulsion, suspension, and other exclusionary discipline practices, including early childhood mental health consultation and positive behavior intervention and support strategies;
- Identify free resources to support States, programs, teachers, and providers in addressing children's social-emotional and behavioral health, strengthening family-program relationships,

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<sup>1</sup> Early childhood programs or early childhood settings include any program that provides early care and education to young children birth through age five, including, but not limited to private child care, Head Start, and public, private, and faith-based Pre-K/preschool programs.

<sup>2</sup> Gilliam, W. S. (2005). Prekindergartners left behind: Expulsion rates in state prekindergarten systems. New York, NY: Foundation for Child Development.

<sup>3</sup> U.S Department of Education Office for Civil Rights (2014). Data Snapshot: Early Childhood Education.

<sup>4</sup> Gilliam, W.S., & Shahar, G. (2006). Preschool and child care expulsion and suspension: Rates and predictors in one state. *Infants & Young Children*, 19, 228–245.

<sup>5</sup> Lamont, J. H., Devore, C. D., Allison, M., Ancona, R., Barnett, S. E., Gunther, R., ... & Young, T. (2013). Out-of-school suspension and expulsion. *Pediatrics*, 131(3), e1000-e1007.

<sup>6</sup> Petras, H., Masyn, K. E., Buckley, J. A., Jalongo, N. S., & Kellam, S. (2011). Who is most at risk for school removal? A multilevel discrete-time survival analysis of individual- and context-level influences. *Journal of Educational Psychology*, 103, 223

<sup>7</sup> American Psychological Association, Zero Tolerance Task Force Report (2008). An evidentiary review and recommendations.

<sup>8</sup> It should be noted that a long-standing and continuing practice in Head Start is to not expel or suspend any child.



increasing developmental and behavioral screening and follow-up, and eliminating racial/national origin/ethnic, sex, or disability biases and discrimination in early learning settings;<sup>9</sup> and

- Identify free resources to support families in fostering young children’s development, social-emotional and behavioral health, and relationships.

This policy statement is part of a series of Federal actions that aim to prevent, severely reduce, and ultimately eliminate expulsion and suspension in early childhood settings, and more broadly, to improve school climates and discipline across the educational spectrum. This statement follows the January 2014 release of the Department of Education’s *Guiding Principles: A Resource Guide for Improving School Climate and Discipline*, which provides recommendations for reducing expulsion, suspension, and disciplinary removals in K-12 settings. The *Guiding Principles* articulated in that practice guide are as follows:

- Create positive climates and focus on prevention;
- Develop clear, appropriate, and consistent expectations and consequences to address disruptive student behaviors; and
- Ensure fairness, equity, and continuous improvement.

Although early childhood settings differ in context from K-12 settings, the *Guiding Principles* are applicable to both, such that focusing on prevention, developing and communicating clear behavioral expectations, and ensuring fairness, equity, and continuous improvement, can and should be applied across settings where children learn. In addition to this policy statement, HHS and ED are working together to raise awareness of the issue, encourage State and local policy development, invest in professional development for the early childhood workforce, disseminate resources to support families, programs, and States, and enforce Federal civil rights law that prohibit discriminatory discipline practices.<sup>9</sup> We want to work toward a goal of ensuring that all children’s social-emotional and behavioral health are fostered in an appropriate high-quality early learning program, working toward eventually eliminating expulsion and suspension practices across early learning settings.

## **OVERVIEW**

The beginning years of any child’s life are critical for building the early foundation of learning, health and wellness needed for success in school and later in life. During these years, children’s brains are developing rapidly, influenced by the experiences, both positive and negative, that they share with their families, caregivers, teachers, peers, and in their communities.<sup>10</sup> A child’s early years set the trajectory for the relationships and successes they will experience for the rest of their lives, making it crucial that children’s earliest experiences truly foster – and never harm – their development. As such, expulsion and suspension practices in early childhood settings, two stressful and negative experiences young children and their families may encounter in early childhood programs, should be prevented, severely limited, and eventually eliminated. High-quality early childhood programs provide the positive experiences that nurture positive learning and development.

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<sup>9</sup> ED’s Office for Civil Rights and HHS’ Office for Civil Rights enforce several Federal civil rights laws that prohibit discrimination in early childhood programs receiving Federal financial assistance from their respective departments, including: Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. §§ 2000d - 2000d-7 (prohibiting discrimination based on race, color, or national origin by recipients of Federal financial assistance); Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 – 1688 (prohibiting discrimination based on sex by recipients of Federal financial assistance); and Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (prohibiting discrimination based on disability by recipients of Federal financial assistance. ED, HHS, and the Department of Justice share authority to enforce Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131 – 12134, which prohibits discrimination based on disability by state and local governments, regardless of whether they received Federal financial assistance. In addition, the Department of Justice enforces Title III of the American with Disabilities Act, 42 U.S.C. §§ 12181 – 12189, which prohibits disability discrimination in most private early childhood programs.

<sup>10</sup> National Research Council and Institute of Medicine (2000) *From Neurons to Neighborhoods: The Science of Early Childhood Development*. Committee on Integrating the Science of Early Childhood Development. Jack P. Shonkoff and Deborah A. Phillips, eds. Board on Children, Youth, and Families, Commission on Behavioral and Social Sciences and Education. Washington, D.C.: National Academy Press.

Suspension and expulsion can influence a number of adverse outcomes across development, health, and education. Young students who are expelled or suspended are as much as 10 times more likely to drop out of high school, experience academic failure and grade retention, hold negative school attitudes, and face incarceration than those who are not.<sup>5,6,7</sup> While much of this research has focused on expulsion and suspension in elementary, middle, and high school settings, there is evidence that expulsion or suspension early in a child's education is associated with expulsion or suspension in later school grades.<sup>11</sup>

Not only do these practices have the potential to hinder social-emotional and behavioral development, they also remove children from early learning environments and the corresponding cognitively enriching experiences that contribute to healthy development and academic success later in life. Expulsion and suspension practices may also delay or interfere with the process of identifying and addressing underlying issues, which may include disabilities or mental health issues. Some of these children may have undiagnosed disabilities or behavioral health issues and may be eligible for additional services, but in simply being expelled, they may not receive the evaluations or referrals they need to obtain services. For example, the source of challenging behavior may be communication and language difficulties, skills that can be improved through early assessment and intervention services. In these cases, appropriate evaluation and follow-up services are critical, but less likely if the child is expelled from the system. Finally, expulsions may contribute to increased family stress and burden. In many cases, families of children who are expelled do not receive assistance in identifying an alternative placement, leaving the burden of finding another program entirely to the family. There may be challenges accessing another program, particularly an affordable high-quality program. Even in cases where assistance is offered, often there is a lapse in service which leaves families, especially working families, in difficult situations.<sup>12</sup>

Furthermore, if administered in a discriminatory manner, suspensions and expulsions of children may violate Federal civil rights laws. ED and the Department of Justice recently issued guidance explaining the obligation of recipients of Federal financial assistance to administer student discipline without regard to race, color, or national origin.<sup>13</sup> In addition, early childhood programs must comply with applicable legal requirements governing the discipline of a child for misconduct caused by, or related to, a child's disability, including, as applicable, implementing reasonable modifications to policies, practices, or procedures to ensure that children with disabilities are not suspended or expelled because of their disability-related behaviors unless a program can demonstrate that making such modifications would result in a fundamental alteration in the nature of a service, program, or activity.<sup>14</sup> If the child's behavior impedes the child's learning, or that of others, the IEP Team<sup>15</sup> must consider behavioral intervention strategies, including the use of positive behavioral interventions and supports, when developing the initial IEP, or modifying an existing IEP, so as to reduce the need for discipline of a child with disabilities and avoid suspension or expulsion from a preschool program. In addition, preschool children with disabilities aged three through five who are eligible for services under the IDEA are entitled to the same disciplinary protections that apply to all other IDEA-eligible children with disabilities, and may not be subjected to impermissible disciplinary changes of placement for misconduct that is caused by or related to their disability, and must continue to receive educational services consistent with their right to a free appropriate public education (FAPE) under the IDEA.<sup>16</sup>

Data released over the past decade have shown high rates of expulsion and suspension in early childhood programs, with variability in rate depending on the setting.<sup>2,3,4</sup> For example, a nationally representative

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<sup>11</sup> Raffaele Mendez, L. (2003). Predictors of suspension and negative school outcomes: A longitudinal investigation. *New Directions for Youth Development*, 99, 17-33.

<sup>12</sup> Van Egeren, L.A., Kirk, R., Brophy-Herb, H.E., Carlson, J. S., Tableman, B. & Bender, S. (2011). *An Interdisciplinary Evaluation Report of Michigan's Child care Expulsion Prevention (CCEP) Initiative*. Michigan State University.

<sup>13</sup> ED Office for Civil Rights and DOJ, Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, at 3-4 (2014), [www.ed.gov/ocr/letters/colleague-201401-title-vi.pdf](http://www.ed.gov/ocr/letters/colleague-201401-title-vi.pdf)

<sup>14</sup> 34 C.F.R. §§ 104.4, 104.38; 28 C.F.R. § 35.130(b)(1), (7).

<sup>15</sup> 34 C.F.R. §300.321

<sup>16</sup> 34 CFR §§300.530 through 300.536 (IDEA's disciplinary protections) and 34 CFR §§300.101 and 300.17 (FAPE).

study published in 2005 found that over 10% of preschool teachers in state-funded prekindergarten programs reported expelling at least one preschooler in the past year: a rate more than three times higher than estimates for teachers of K-12 public school students.<sup>2</sup> A 2006 study examined expulsion in child care programs not participating in a State prekindergarten system, in one State. In these settings, 39% of preschool teachers reported expelling a child in the past year.<sup>4</sup> Experts have suggested that rates are high because early education is voluntary, many programs do not have established policies, and often these programs have less infrastructure and workforce support than do public schools or more structured early education programs, like Head Start. This suggests that established policies and investments in supports for programs may help reduce these rates.

Data also indicate that specific groups of children are being disproportionately expelled and suspended from their early learning settings; a trend that has remained virtually unchanged over the past decade.<sup>2,3,4</sup> Recent data out of ED indicate that African-American boys make up 18% of preschool enrollment, but 48% of preschoolers suspended more than once. Hispanic and African-American boys combined represent 46% of all boys in preschool, but 66% of their same-age peers who are suspended. Analyses of boys, compared to girls, indicated that they make up 79% of preschoolers suspended once, and 82% of preschoolers suspended multiple times.<sup>3</sup> Although *why* these gender and racial disparities exist in early childhood settings has not yet been empirically investigated, research demonstrating similar disparities in school-aged children has found that potential contributors may include uneven or biased implementation of disciplinary policies, discriminatory discipline practices, school racial climates, and under-resourced, inadequate education and training for teachers, especially in self-reflective strategies to identify and correct potential biases in perceptions and practice.<sup>5,7,17,18</sup>

To that end, ensuring that the early childhood workforce is adequately trained, supported, and prepared to help all children excel is a key strategy in limiting and eventually eliminating early expulsion and suspension. Unfortunately, many teachers and providers do not have sufficient training and support to meet this goal. The 2012 National Survey of Early Care and Education indicates that only about 20% of teachers and providers serving children under five reported receiving specific training on facilitating children's social and emotional growth in the past year.<sup>19</sup> Other studies have found that early learning teachers report that coping with challenging behavior is their most pressing training need.<sup>20,21</sup> Aside from not having adequate support in fostering social-emotional development and appropriately responding to challenging behavior, without enough training in child development, it may be difficult to distinguish behaviors that are inappropriate from those that are developmentally age appropriate. Early childhood experts posit that developmentally inappropriate behavioral expectations may lead to inappropriate labeling of child behavior as challenging or problematic.<sup>22</sup> Furthermore, teachers must also be trained to recognize behaviors that may be a manifestation of a child's disability. This training is essential to ensure that children with disabilities receive reasonable modifications for their disabilities and are not impermissibly suspended or expelled for behaviors caused by disabilities.<sup>9,14</sup>

Early suspension, expulsion, and other exclusionary discipline practices contribute to setting many young children's educational trajectories in a negative direction from the beginning. This has long-term consequences for children, their families, and the schools that they will later attend. More broadly, there

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<sup>17</sup> Gregory, A., Skiba, R. J., & Noguera, P. A. (2010). The Achievement Gap and the Discipline Gap Two Sides of the Same Coin? Educational Researcher, 39(1), 59-68.

<sup>18</sup> Skiba, R. J., Horner, R. H., Chung, C. G., Rausch, M., May, S. L., & Tobin, T. (2011). Race is not neutral: A national investigation of African American and Latino disproportionality in school discipline. School Psychology Review, 40(1), 85.

<sup>19</sup> National Survey of Early Care and Education. <http://www.acf.hhs.gov/programs/opre/research/project/national-survey-of-early-care-and-education-nsece-2010-2014>

<sup>20</sup> Yoshikawa, H. & Zigler, E. (2000). Mental health in Head Start: New directions for the twenty-first century. Early Education and Development, 11, 247-264.

<sup>21</sup> Fox, L. & Smith, B. (2007). Issue Brief: Promoting social, emotional, and behavioral outcomes of young children served under IDEA. Challenging Behavior, Retrieved November 24, 2014 from [www.challengingbehavior.org/do/resources/documents/brief\\_promoting.pdf](http://www.challengingbehavior.org/do/resources/documents/brief_promoting.pdf)

<sup>22</sup> Qi, C. H., & Kaiser, A. P. (2003). Behavior problems of preschool children from low-income families: Review of the literature. Topics in early childhood special education, 23(4), 188-216.

are societal consequences of setting children on a negative path, including exacerbating inequality. Resolving this issue will require an all-hands-on-deck approach and a shared responsibility between families, programs, and government at all levels. The most important steps programs, schools, and States can take in preventing, severely limiting, and ultimately eliminating expulsion and suspension practices in early childhood settings are combining developmentally appropriate and nondiscriminatory discipline procedures and policies, with targeted workforce professional development focused on promoting the social-emotional and behavioral health of all children and enhancing teacher and provider self-reflective capacity to prevent and eliminate biases in practice.

## **RECOMMENDATIONS FOR EARLY CHILDHOOD PROGRAMS**

**Develop and Clearly Communicate Preventive Guidance and Discipline Practices:** In accordance with the first and second *Guiding Principles*, programs should establish developmentally appropriate social-emotional and behavioral health promotion practices, and discipline and intervention procedures. These practices and procedures should be clearly communicated to all staff, families, and community partners, and implemented consistently and without bias or discrimination. Preventive and discipline practices should be used as learning opportunities to guide children’s appropriate behavioral development. Children’s desired behavior should be reinforced and consequences for challenging behavior should be developmentally appropriate and consistent. Programs should pay distinct attention to the developmental appropriateness of both behavioral expectations and consequences for challenging behavior, given the substantial developmental and experiential differences among children birth through age five and the range of what is age-appropriate across this age range. Programs should also pay distinct attention to the language they use in shaping children’s behavior and communicating with families. Language commonly used in the criminal justice system, such as the use of “probation plans” or “three strikes and you are out” frameworks, should not be applied to discipline frameworks in early childhood programs (e.g. “three bites and you are out”). These terms connote criminal behavior and inappropriately label children.

Program discipline procedures should provide specific guidance on what teachers and programs will do when presented with challenging behaviors, including specific teacher and staff responses, communication with families and caregivers, and consulting with mental health specialists, school counselors, and the child’s medical home.<sup>23</sup> In addition, if the child is suspected of having a developmental delay, disability, or mental health issue, it may be appropriate to refer the child’s parents to the mental health system, the State’s early intervention program, or their local school for information regarding evaluation for services under the Individuals with Disabilities Education Act (IDEA) Part B or C programs. These systems can conduct an evaluation, so that if the child is eligible, he or she may receive the appropriate services and supports as soon as possible. Children eligible for services under Part B or C are also likely entitled to protections under Title II and Title III of the ADA, such that programs must make reasonable modifications to their policies, practices, or procedures to ensure that children with disabilities are not suspended or expelled because of their disability-related behaviors.<sup>9,14,22,24</sup>

**Develop and Clearly Communicate Expulsion, and Suspension Policies:** Currently, many early childhood programs do not have suspension or expulsion policies. However, some programs, like Head Start, have a long-standing and continuing practice to prohibit the expulsion or suspension of any child.

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<sup>23</sup> The modern medical home is a home base for any child’s medical and non-medical care. It is a cultivated partnership between the patient, family, and primary provider in cooperation with specialists and support from the community. A medical home is a home base for any child’s medical and non-medical care. <http://www.hrsa.gov/healthit/toolbox/Childrenstoolbox/BuildingMedicalHome/whyimportant.html>

<sup>24</sup> The IDEA Part C program makes early intervention services available to children with disabilities, generally ages birth to age three (and at the State’s option, beyond age three until kindergarten), and the IDEA Part B program requires States and their public agencies to make available a free appropriate public education to children with disabilities, beginning at age three and lasting through 21 depending on State law or practice. The IDEA Part B and Part C programs have different eligibility criteria and service requirements. IDEA Part B is codified at 20 U.S.C. 1401 1411-1419 and implementing regulations are at 34 CFR Part 300 and IDEA Part C is codified at 20 U.S.C. 1431 through 1443 and implementing regulations are at 34 CFR Part 303.



Early childhood programs are strongly encouraged to establish policies that eliminate or severely limit expulsion, suspension, or other exclusionary discipline; these exclusionary measures should be used only as a last resort in extraordinary circumstances where there is a determination of a serious safety threat<sup>25</sup> that cannot otherwise be reduced or eliminated by the provision of reasonable modifications, consistent with the second *Guiding Principle*. Even in such extraordinary cases, the program should assist the child and family in accessing services and an alternative placement through, for example, community-based child care resource and referral agencies. In addition, consistent with the third *Guiding Principle*, early childhood programs must ensure that discipline policies comply with Federal civil rights laws.<sup>9,14,22</sup>

Should a situation arise where there is documented evidence that all possible interventions and supports recommended by a qualified professional, such as an early childhood mental health consultant, have been exhausted – and it is unanimously determined by the family, teacher, program, and other service providers that another setting is more appropriate for the well-being of the child in question – all parties, including the receiving program, should work together to develop a seamless transition plan and use that plan to implement a smooth transition. If the child has a disability, including children receiving services under Part B of the IDEA, additional procedural safeguards and nondiscrimination requirements apply.<sup>26</sup> When making decisions about transitioning a child and family to another program, specific attention should be paid to ensure that the new program is inclusive<sup>27</sup> and offers a rich social context and opportunities for interactions with socially competent peers to ensure that children can optimize their learning, and develop their social skills alongside their peers in a natural environment. The program transitioning the child should also undergo a self-evaluation and identify systemic reforms and professional development actions they may take to prevent the need for such transitions in the future. The family should be encouraged to inform the child's primary health care provider so that developmental and health evaluations may be conducted and so the health care provider may serve as a coordinating support to the family.

Once appropriate policies and procedures are established, early childhood programs should clearly communicate them with all staff, families, health and mental health consultants, and community partners. Clear communication will enable program administrators, teachers, aides, and other staff to be consistent in their implementation of prevention and intervention strategies as well as their expulsion/suspension practices, and will ensure that all parties share the same information and operate with the same set of assumptions. Clear and consistent policies may reduce the likelihood of inconsistent, ad-hoc, or discriminatory decision-making and help address racial disparities by reducing subjective behavioral judgments that have been shown to contribute to racial discipline disparities in the K-12 context.<sup>28</sup>

All programs must ensure that the policies developed, and implementation of those policies, are in accordance with applicable State and Federal statutes. Such statutes include, but are not limited to IDEA, Title II of the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act.

### **Access Technical Assistance in Workforce Development to Prevent Expulsion and Suspension:**

Teachers and support staff are the most critical ingredients of high-quality early learning programs. Several core program features, facilitated by a strong workforce, can assist in preventing, severely limiting, and ultimately eliminating expulsions and suspensions. In accordance with the first *Guiding*

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<sup>25</sup> Determinations of safety threats must be based on actual risks, best available objective evidence, and cannot be based on stereotypes or generalizations.

<sup>26</sup> For children receiving services under IDEA, Part B, public agencies must comply with applicable requirements, including those in 34 C.F.R. § §§300.530 through 300.536, when considering discipline actions against a child with a disability as well as ED's Section 504 regulations. 34 C.F.R. §§ 104.4, 104.38. In addition, public entities must comply with Title II. 28 C.F.R. § 35.130(b)(7). For additional information about IDEA requirements,,, see the June 2009 Questions and Answers on Discipline Procedures, available at <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C7%2C>

<sup>27</sup> An inclusive setting is a setting where all children, regardless of ability or disability, participate fully in program activities, learn together, and form meaningful relationships with one another.

<sup>28</sup> Skiba, R. J., Chung, C. G., Trachok, M., Baker, T. L., Sheya, A., & Hughes, R. L. (2014). Parsing Disciplinary Disproportionality Contributions of Infraction, Student, and School Characteristics to Out-of-School Suspension and Expulsion. *American Educational Research Journal*, 51(4), 640-670.

*Principle* – create positive climates and focus on prevention – programs should strive to build their workforce’s capacity in:

- Promoting children’s social-emotional and behavioral health and appropriately addressing challenging behavior;
- Forming strong, supportive, nurturing relationships with children;
- Conducting ongoing developmental monitoring, universal developmental and behavioral screenings at recommended ages, and follow-up, as needed;
- Collaborating with community-based service providers, including the child’s medical home, and connecting children, families, and staff to additional services and supports as needed;
- Forming strong relationships with parents and families;
- Having a strong understanding of culture and diversity;
- Employing self-reflective strategies and cultural awareness training to prevent and correct all implicit and explicit biases, including racial/national origin/ethnic, sex, or disability biases; and
- Eliminating all discriminatory discipline practices.

To prevent, severely limit, and ultimately eliminate expulsion and suspension practices, all program staff should have a strong set of skills; equally essential, however, is ensuring that they have access to additional support from specialists or consultants, such as early childhood mental health consultants, behavioral specialists, school counselors, or special educators. Such support would provide assistance in conducting more sophisticated evaluations; identifying additional services if needed for children, families, or staff; understanding and responding appropriately to other behavioral determinants in the child’s life, such as exposure to traumatic events or stressors; developing evidence-based individualized behavior support plans for children who require them; and building greater capacity in teachers and staff to implement those behavior support plans and engage in self-reflective practice that can help prevent and eliminate potential biases in practice. Early childhood teachers who report regular access to such mental health and behavioral supports, report half the rate of expulsions than do teachers who report no such access. Unfortunately, only about one in five teachers report regular access to behavioral consultants of any type.<sup>26</sup> Practices like early childhood mental health consultation and positive behavior intervention and support, both of which generally consist of staff capacity building paired with external specialized support, have been shown to reduce and prevent expulsion and suspension in early learning and school settings, as well as reduce rates of teacher-rated challenging behaviors in young children.<sup>29,30, 31</sup> Appendices 1 and 2 contain additional information on early childhood mental health consultation and positive behavior intervention and support, respectively.

Finally, early childhood programs should promote teacher health and wellness and ensure that teachers work reasonable hours with breaks. Programs should have strong relationships with community-based service providers that can offer teachers additional social services, as needed, including health and mental health supports. Promoting teacher wellness may strengthen teachers’ capacity to form strong nurturing relationships with children, as well as reduce teacher job stress, which has been shown to be predictive of preschool expulsions.<sup>26</sup>

Combined, workforce wellness, preparation and development, and access to expert supports, may assist programs in preventing, severely limiting, and ultimately eliminating expulsion and suspension in early childhood settings.

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<sup>29</sup> Gilliam, W.S. (2007). Reducing Behavior Problems in Early Care and Education Programs: An Evaluation of Connecticut’s Early Childhood Consultation Partnership. IMPACT series, Child Health and Development Institute, Farmington, CT.

<sup>30</sup> Hepburn, K.S., Perry, D.F., Shivers, E.M., & Gilliam, W.S. (2013). Early childhood mental health consultation as an evidence-based practice: Where does it stand? *Zero to Three*, 33, 10-19.

<sup>31</sup> Bradshaw, C., Mitchell, M., & Leaf, P. (in press). Examining the effects of school-wide positive behavioral interventions and supports on student outcomes: Results from a randomized controlled effectiveness trial in elementary schools. *Journal of Positive Behavior Interventions*.

**Set Goals and Analyze Data to Assess Progress:**<sup>32</sup> Programs will progress at different paces in fully implementing consistent preventive practices, severely limiting, and eventually eliminating expulsion and suspension practices due to program variability in size and access to resources. In accordance with the third *Guiding Principle* – ensure fairness, equity, and continuous improvement – it is important that all programs set their own goals, monitor their data to assess progress, and modify their practices and investments, as needed, to reach their goals. Several types of data can be useful in assessing progress, depending on the specific goal. Some examples of useful data to collect include:

- Percentage of teachers with regular access to a behavioral or mental health consultant;
- Percentage of children who receive developmental and behavioral screenings on regular schedules;
- Percentage of children with challenging behaviors who have received a comprehensive evaluation for services under Part B or Part C;
- Number of behavior incident reports, broken down by child and setting characteristics;
- Number of suspensions and expulsions broken down by race, gender, and disability; and
- Number of suspensions and expulsions broken down by teacher/provider, class/group size, teacher-child ratio, and length of day.

Examples of goals may include:

- Provide professional development on social-emotional and behavioral health to all staff in one year; ensure that 50% of teachers have access to specialists or consultants in two years; ensure that all lead teachers have access to specialists or consultants in three years.
- Adopt a program-wide positive behavior intervention and support framework in one year.
- Reduce the number of total suspensions and expulsions program-wide by 50% in one year; eliminate all expulsions and suspensions, with exceptions only in extraordinary cases, in two years.

**Make Use of Free Resources to Enhance Staff Training and Strengthen Family Partnerships:** There are several currently and formerly Federally funded resources available free of charge that can assist in preventing, severely limiting, and ultimately eliminating expulsion and suspension. Resources include – but are not limited to – the National Resource Center for Health and Safety in Child Care and Early Education’s *Stepping Stones to Caring for Our Children: National Health and Safety Performance Standards*, which can assist programs in establishing disciplinary and expulsion/suspension policies; HHS and ED’s *Birth to Five Watch Me Thrive* materials, which can enhance developmental and behavioral screening practices in early learning settings; and materials from the *National Center on Early Childhood Mental Health Consultation*, *Center for the Social Emotional Foundation for Early Learning (CSEFEL)*, and the *Technical Assistance Center on Social Emotional Intervention (TACSEI)*, which can be used to bolster staff training on social-emotional and behavioral support for very young children. Programs should access and make use of these resources, as appropriate, to aid in their efforts to prevent, severely limit, end eventually eliminate expulsion and suspension practices. Appendices 3 and 4 offer resources for programs/teachers and families, respectively.

## **RECOMMENDATIONS FOR STATE ACTION**

**Develop and Clearly Communicate Expulsion and Suspension Policies:** States are strongly encouraged to establish statewide policies, applicable across settings, including publicly and privately

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<sup>32</sup> Note that, in some cases, public preschool programs may already be required to collect this data for purposes of the Civil Rights Data Collection (CRDC). The CRDC is a mandatory data collection, authorized under the statutes and regulations implementing Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and under the Department of Education Organization Act (20 U.S.C. § 3413). The regulations implementing these provisions can be found at 34 CFR 100.6(b); 34 CFR 106.71; and 34 CFR 104.61.

funded early childhood programs, to promote children's social-emotional and behavioral health and eliminate or severely limit the use of expulsion, suspension, and other exclusionary discipline practices; these exclusionary measures should be used only as a last resort in extraordinary circumstances where there is a determination of a serious safety threat<sup>25</sup> that cannot otherwise be reduced or eliminated by the provision of reasonable modifications, consistent with the second *Guiding Principle*. In addition, consistent with the third *Guiding Principle*, States must ensure that discipline policies comply with Federal civil rights laws.<sup>9</sup> Should a situation arise where there is documented evidence that all possible interventions and supports recommended by a qualified professional have been exhausted and it has been determined that transitioning a child to another program is necessary for the well-being of the child or his or her peers, the State should encourage programs to take a series of documented steps to ensure a smooth transition into another setting that offers a rich social context and opportunities for interactions with socially competent peers so that children's learning and social skills practice is optimized in a natural environment. If the child has a disability and is receiving services under IDEA, the State must ensure that additional applicable procedural safeguards and requirements are met. In addition, the State is responsible for nondiscrimination on the basis of disability in its programs in compliance with Title II of the ADA and Section 504 of the Rehabilitation Act.

These policies may be included in State child care licensing regulations, as some States have begun doing. Many States currently address behavior and discipline in their child care licensing regulations. Adding explicit policies on expulsion and suspension is an important next step.

These policies and procedures should be clearly communicated to all relevant parties, including programs, schools, families, community partners, and others. Under the reauthorized Child Care and Development Block Grant Act of 2014, States are required to disseminate consumer education information to parents, the general public, and child care providers. These efforts must include information about State policies regarding the social-emotional behavioral health of young children, which may include positive behavior intervention and support models, and policies on the expulsion of young children in early childhood programs receiving assistance under the Child Care and Development Fund (CCDF).

**Set Goals for Improvement and Analyze Data to Assess Progress:** States should work on building capacity to collect and analyze statewide data on expulsions, suspensions, and other exclusionary discipline practices. States are encouraged to coordinate data systems across early childhood programs and track their own information on early childhood workforce professional development or continuing education, access to behavioral or mental health specialists, investments and effects of prevention efforts, and expulsion and suspension from early childhood programs. These systems should also align with K-12 data systems. States are also encouraged to develop roadmaps to eliminating expulsion and suspension, informed by goals and data-driven progress monitoring. Goals may differ across States, but examples may include:

- Incorporate basic training on social-emotional and behavioral health in State entry-level credentials in one year; ensure 50% of community colleges and universities incorporate social-emotional and behavioral health, with guidance on real-world applicability, in teacher preparation programs in two years.
- Ensure that 25% of programs have access to early childhood mental health consultant within one year; ensure that 50% of programs have access to early childhood mental health consultant within two years; ensure that 100% of programs have access to mental health consultant within three years;
- Reduce the number of total suspensions and expulsions statewide by 25% within one year; 50% within two years; and 75% in three years.

**Invest in Workforce Preparation and Development:** States have a significant role to play in ensuring that the early childhood workforce has a strong knowledge base and skills, and access to behavioral



specialists or mental health consultants, to prevent expulsion, suspension, and other exclusionary discipline practices. The Child Care and Development Block Grant of 2014 directs States to use a percentage of funds on activities that enhance the quality of child care programs. Among the list of allowable quality enhancement activities are behavioral management strategies and training that promotes positive social-emotional development and reduces challenging behaviors and expulsion practices. States can strengthen their workforce through a variety of mechanisms, including:

***State Entry-Level Credentials:*** Many States have established early childhood development credentials for entry-level providers and teachers. By including practice-based professional development in State entry-level credentials, focused on enhancing teacher and provider skills in promoting children's social-emotional and behavioral health and capacity to identify and eliminate biases, States can ensure that new providers, teachers, and support staff have the skills to appropriately support all children, enabling them to play an important role in eliminating expulsion and suspension.

***Higher Education:*** States can work with their local institutions of higher education, including universities and community colleges, to ensure that a strong component of teacher preparation, including coursework and student teaching/internships, includes social-emotional and behavioral health promotion and self-reflection capacity to identify and eliminate biases.

***Statewide Early Childhood Mental Health Consultation:*** States can leverage Federal, State, and private funding to implement statewide early childhood mental health consultation systems so that all early learning programs have access to a knowledgeable early childhood mental health consultant. Several States have funded early childhood mental health consultation systems, and the results of several evaluations of these systems using a variety of evaluative methods indicate strong effectiveness.<sup>25,26</sup> The *What Works* publication (2009) outlines several successful statewide systems of early childhood mental health consultation that can serve as models or roadmaps for States interested in developing or expanding their mental health consultation efforts (see Appendix 1).

***State Endorsements for Infant, Early Childhood, and Family Mental Health Specialists:*** Some States have invested in endorsements that recognize a set of knowledge, skills, and competencies in infant and early childhood mental health. In providing a standard set of competencies, these endorsements help ensure a high-quality mental health workforce equipped with the skills to work with very young children and the adults who care for them.

***Statewide Models of Positive Behavior Intervention and Supports (PBIS):*** States can adopt a PBIS framework. Through this, they can plan, implement and sustain a professional development system to enhance the knowledge and skills of the early childhood workforce in meeting the social-emotional and behavioral health needs of young children in inclusive and natural environments. Appendix 2 contains information on program-wide models of positive behavior interventions and supports.

***Career Pathways:*** States can build early childhood career pathways that incorporate progressively advanced capacity in social-emotional and behavioral health promotion and self-reflection to identify and eliminate biases at each step in the career ladder. As with other knowledge and skills, students should demonstrate competencies in such content areas prior to advancement to the next step in their career.

**Establish and Implement Policies Regarding Program Quality:** Several factors related to the overall quality of early care and education programs are predictive of expulsion, suspension, and other exclusionary discipline practices. These quality factors should be targeted by States to both increase

overall quality of early learning services and reduce or eliminate expulsions, suspensions, and other exclusionary discipline practices. For example, staff qualifications should be high and professional development should be provided on an ongoing basis, including professional development that addresses social-emotional and behavioral development and exclusionary discipline practices. Programs should adhere to group sizes and child/adult ratios no greater than those recommended in the National Resource Center for Health and Safety in Child Care and Early Education's *Stepping Stones to Caring for Our Children*. Teachers should use developmentally appropriate, culturally and linguistically responsive practices and evidence-based curricula and create learning environments aligned with the State early learning and development standards. Children should have access to comprehensive services and individual accommodations and supports as needed. Health and safety standards should be implemented and programs should be evaluated to ensure continuous improvement.

**Access Free Resources to Develop and Scale Best Practices:** Several free resources are available to assist States in eliminating expulsion and suspension in early childhood settings. For example, technical assistance resources from centers such as the previously Federally funded *Center for the Social Emotional Foundation for Early Learning (CSEFEL)* and the *Technical Assistance Center on Social Emotional Intervention (TACSEI)*, offer helpful information for States interested in implementing statewide positive behavior intervention and support strategies; the *National Center for Early Childhood Mental Health Consultation* offers numerous resources on statewide early childhood mental health consultation systems; the *National Center on Culturally Responsive Systems* houses materials to enhance cultural responsiveness in educational settings; and *Stepping Stones to Caring for Our Children: National Health and Safety Performance Standards* provides guidance on establishing expulsion and suspension policies. Appendix 5 provides several free resources that States can access, as appropriate, to address expulsion and suspension practices.

## **CONCLUSION**

Fostering the social-emotional and behavioral development of all children, and in doing so eliminating expulsion and suspension practices in early childhood settings, depends on strong partnerships between families, programs, and government, serious investments in workforce wellness, preparation and training, and development of appropriate and clearly communicated policies that are implemented consistently and without bias or discrimination across the diversity of young children represented in early learning settings. Those who serve our youngest learners have the responsibility and trust of setting infants, toddlers, and young children on positive trajectories. By reducing and ultimately eliminating expulsion and suspension through nurturing relationships and capacity building, with and on behalf of young children and their families, we can ensure that all of our youngest learners have the tools and experiences they need to thrive.

## **Exhibit B**

# Suspensions & Expulsions in Early Grades:

## A Problem Texas Can Fix with Strategies to Support Teachers and Students

All too often, Texas students in pre-k and other early grades are removed from their classes for challenging age-appropriate behavior or more challenging behavior stemming from childhood trauma or developmental concerns. We welcome the growing interest among school boards and state legislators in reducing suspensions and expulsions of students in these early grades. Efforts to keep these children in class will be most successful if they include training and technical assistance for teachers and administrators and other steps to address the challenges that school personnel and students face.

Student behavior in pre-k and the first few years of elementary school is often a challenge for teachers and administrators. In many cases that challenging behavior is developmentally appropriate and common, and in some cases it is also a product of childhood trauma or a developmental challenge. There are effective steps that teachers and schools can take to address student behavior, but all too often, school districts suspend or expel young students from their classroom. When young children are removed from their classrooms and schools, they miss out on the very opportunities they most need - the chance to learn, practice, and develop the foundational skills required for success in school and life.

Concerns about the high numbers of suspensions and expulsions in the early grades recently led several Texas districts, including Houston, Dallas, El Paso, and Austin ISDs, to place significant restrictions on the practice. State legislators have filed similar statewide bills. Those proposals are an important step in the right direction. However, these efforts will be most effective if coupled with strategies that provide teachers and schools with effective interventions to address challenging behaviors in students.

## BACKGROUND

### **Schools in Texas remove students in pre-k and in the early grades at alarming rates.**

- 107,745 kids from kindergarten through 2nd grade were suspended in the 2013-2014 school year.
- 4,691 pre-kindergarten students were suspended in the 2015-2016 school year.

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Texans Care for Children is a statewide, non-profit, non-partisan, multi-issue children's policy organization. We drive policy change to improve the lives of Texas children today for a stronger Texas tomorrow. We envision a Texas in which all children grow up to be healthy, safe, successful, and on a path to fulfill their promise.

**Virtually all classroom removals in the early grades occur for optional reasons.**

- In three percent of suspensions from pre-k through second grade in Texas, the punishment is mandated by state law. Those cases include bringing a gun or drugs to school or other serious offenses.
- The other 97 percent are discretionary cases in which school administrators choose to suspend the student.

**In some cases, schools resort to removals for challenging – but age-appropriate – behavior.**

Testing boundaries and learning to manage emotions are age-appropriate behaviors for younger students. A child may still be in the process of developing skills such as self-control and taking turns. Children this age also commonly act out if they are not engaged in the classroom activities. This could occur when class sizes are too big, activities are too challenging (or too easy), or the teacher has not yet mastered effective classroom management skills for this young student population.

**In other cases, schools remove students for challenging behavior that may stem from childhood trauma or stress or from developmental concerns.**

- Exposure to traumatic experiences or prolonged chronic stress – such as child abuse or hunger – during the childhood years can disrupt normal development of the brain, affecting the way a child learns, reacts, and behaves. In 2016, more than 14,000 children between the ages of four and eight years old were in DFPS custody following findings of abuse and neglect. Nearly half (46 percent) of children in Texas are reported to have one or more potentially traumatic experiences during childhood, as a victim or a witness, that are associated with poor health or social outcomes.
- One out of seven children ages 2 to 8 are estimated to have a mental, behavioral, or developmental disorder, which can affect their judgment and behavior.

**In cases of either age-appropriate behavior or more challenging behavior, implicit bias can subconsciously influence how a teacher or administrator responds.** Research shows that even the best-intentioned among us develop subconscious biases that affect our judgment and decisions. In the classrooms, subconscious racial or gender biases can have an effect on what expectations teachers have of students, how they perceive students' behaviors, and how often and severely they react to those behaviors. Recent research by the Yale Child Guidance Center found that both Black and White early educators were more likely to identify boys, particularly boys who are Black, as having poor behavior, even in controlled studies in which the young Black and White children were actors and behaving appropriately.

**Three groups of Texas students are disproportionately suspended and expelled in the early grades: Black students, male students, and students receiving special education services.**

- In the 2013-2014 school year, Black students made up about 13 percent of the elementary school population in Texas, but they accounted for 42 percent of all pre-k through 5th grade out-of-school suspensions.
- In the 2013-2014 school year, boys made up about 51 percent of the elementary school population in Texas, but they accounted for 84 percent of all pre-k through 5<sup>th</sup> grade out-of-school suspensions.
- In Texas, students in special education were given out-of-school suspension at almost double the rate of the general population of students.

**Suspensions and expulsions are linked to negative outcomes for students.** Students who are suspended and expelled are more likely to:

- Have a lower academic performance
- Drop out of school
- Not graduate on time
- Disengage from school
- Receive future disciplinary action
- Become involved with the justice system

## RECOMMENDATIONS

Whether school personnel are challenged by age-appropriate behavior or more difficult behavior, they need tools and strategies to keep students in the classroom and on a path to success.

**School districts – with support and direction from the Legislature and TEA – should:**

*Provide training and technical assistance to early grade teachers and administrators, including:*

- Practices such as Social Emotional Learning (SEL), Positive Behavioral Interventions and Supports (PBIS), and Restorative Discipline
- Support provided by behavior specialists and/or teacher trainers and mentors
- Evidence-based interventions that address implicit bias
- Opportunities for local child care providers to participate in training sessions

*Establish an early detection and behavior intervention plan to:*

- Implement positive school-wide behavior supports
- Provide access to on- and off-campus services for students and families to address social, emotional, and developmental concerns that interfere with learning and behavior
- Identify at-risk students; develop individualized behavior plans; document interventions used with students; collect and analyze outcome data for students receiving interventions; and increase supports if needed

**In addition to supporting these efforts, state policymakers should also:**

- Strengthen the state’s pre-k and child care policies, including establishing a limit on pre-k class sizes, so that more children can get the individual attention and instruction they need.
- Strengthen the state’s Early Childhood Intervention (ECI) program to ensure all children under age three with disabilities and developmental delays receive the therapies and supports they need to fulfill their potential.
- Ensure children who are eligible for special education services have access to the services, supports, and protections they are entitled to receive.
- Develop a plan to identify and align existing resources at the state, district, and campus levels that can be used to help schools implement strategies shown to address student needs, reduce challenging behavior, and keep students in the classroom learning.

# **Exhibit C**



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A RESEARCH STUDY BRIEF<sup>1</sup>

# Do Early Educators' Implicit Biases Regarding Sex and Race Relate to Behavior Expectations and Recommendations of Preschool Expulsions and Suspensions?

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Yale University Child Study Center // September 28, 2016

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<sup>1</sup> This is a research brief providing basic information regarding the methods, findings and implications from the described study, for presentation at the U.S. Administration for Children and Families (ACF) 2016 State and Territory Administrators Meeting in Alexandria, Virginia on September 28, 2016. More detailed information may be provided upon request.

Acknowledgements: This work was completed through a generous grant from the W.K. Kellogg Foundation. All photos of children are presented with permission of their parents. The authors also wish to acknowledge Amalia Londono Tobon, MD and Sarah Grossman-Kahn for their assistance in collecting the data and preparing the videos for analysis; Dan Huber for filming the videos used in this study; and useful comments from Joelle Jude Fontaine, Craig Holloway, and Dr. Howard Stevenson.

## ABSTRACT

Preschool expulsions and the disproportionate expulsion of Black boys have gained attention in recent years, but little has been done to understand the underlying causes behind this issue. This study examined the potential role of preschool educators' implicit biases as a viable partial explanation behind disparities in preschool expulsions. Participants were recruited at a large conference of early educators and completed two tasks. In Task 1, participants were primed to expect challenging behaviors (although none were present) while watching a video of preschoolers, balanced by sex and race, engaging in typical activities, as the participants' eye gazes were tracked. In Task 2, participants read a standardized vignette of a preschooler with challenging behavior and were randomized to receive the vignette with the child's name implying either a Black boy, Black girl, White boy, or White girl, as well as randomized to receive the vignette with or without background information on the child's family environment. Findings revealed that when expecting challenging behaviors teachers gazed longer at Black children, especially Black boys. Findings also suggested that implicit biases may differ depending on teacher race. Providing family background information resulted in lowered severity ratings when teacher and child race matched, but resulted in increased severity ratings when their race did not match. No differences were found based on recommendations regarding suspension or expulsion, except that Black teachers in general recommended longer periods of disciplinary exclusion regardless of child gender/race. Recommendations for future research and policy regarding teacher training are offered.

Preschool expulsions and suspensions cause young children to lose their early educational placement or time in care, directly undermining their access to educational opportunities. This “push out” phenomenon has become increasingly concerning to the field especially given the disproportionate rates of early childhood expulsions for boys, Blacks, and particularly Black boys. Black preschoolers are 3.6 times as likely to receive one or more suspensions relative to White preschoolers.<sup>1</sup> This is particularly concerning as Black children make up only 19% of preschool enrollment, but comprise 47% of preschoolers suspended one or more times. Similarly, boys are three times as likely as girls to be suspended one or more times.

Sex and race disparities in early expulsions and suspensions may be associated with several factors related to stress-tolerance<sup>2</sup> and poor access to high-quality early learning environments and supports.<sup>3</sup> Yet, no research exists to explain why boys and Black preschoolers are at greatest risk for expulsion, making it difficult to inform anti-exclusionary practices and complicating efforts to address disparities in expulsions and suspensions. Studies demonstrating similar disparities in K-12 students, however, have found that potential contributors may include uneven or biased implementation of disciplinary policies, discriminatory discipline practices, school racial climate, under-resourced programs, and inadequate education and training for teachers, especially in self-reflective strategies to identify and correct potential biases in perceptions and practice.<sup>4</sup>

## THE POTENTIAL ROLE OF IMPLICIT BIASES

Implicit bias refers to the automatic and unconscious stereotypes that drive people to behave and make decisions in certain ways.<sup>5</sup> A 2012 report from the American Psychological Association's Task Force on Preventing Discrimination and Promoting Diversity found that biases – including implicit biases – are pervasive across people and institutions (Jones et al., 2012).<sup>6</sup> Although the behaviors of children may impact adult decision-making processes, implicit biases about sex and race may influence how those behaviors are perceived and how they are addressed, creating a vicious cycle over time exacerbating inequalities.<sup>7</sup>

In one study university undergraduate students, given a vignette of a child with a challenging behavior that was randomly assigned to a picture of an approximately 10-year-old child, rated the Black child as being significantly less innocent and more culpable.<sup>8</sup> They also estimated that the Black children in the pictures were on average 4.5 years older than they really were. Prior research shows that a major predictor of a teacher's plans to expel a preschooler is the degree to which that teacher feels the child may pose a danger to the other children.<sup>9</sup> Therefore, the degree to which Black children are viewed as more culpable or older than they really are may have significant implications for race disparities in expulsion rates.

Although there is no research examining this phenomenon in early education settings, studies of school-aged children have identified concerning trends. In a recent study, researchers presented school teachers with two fictional male student disciplinary records.<sup>10</sup> The records were randomly labeled with either stereotypical Black names or stereotypical White names. Both fictional students had engaged in minor school violations (e.g., classroom disturbance). Teachers reported that they felt more “troubled” by the offenses of the Black student and were more likely to recommend severe punishment for the Black student after the second infraction, including suspension, compared to the White student with the same record.

These tendencies to view child behaviors differentially based on the race of the child may be a manifestation of more generalized implicit biases regarding race and criminal or delinquent behavior.<sup>11</sup> This automatic association between race and perceived threat of aggression has been shown even when the Black face presented was that of a five-year-old boy.<sup>12</sup> There is evidence that empathic responses are dampened when the observer is of a different race than the observed,<sup>13</sup> suggesting that teachers may be less likely to respond with empathy when a child of a race different to her own is exhibiting challenging behaviors or challenging home experiences.

***Expectations and shifting standards.*** Biases in expectations may also influence which children teachers feel are most likely to pose significant classroom behavioral challenges. Teachers often hold higher expectations for White students than for Black students, and are more likely to recommend Black students for special education or disciplinary action.<sup>14</sup> In a recent study, White middle school and high school English teachers were each provided a poorly-written essay to grade.<sup>15</sup> The student name on the essay was randomized to suggest it was authored by either a Black, White, or Latino student. Students of color were assigned significantly higher grades. This suggested that teachers may have been demonstrating biases in their expectations, whereby Black and Latino students were expected to be capable of only lower quality essays and were, therefore, given a higher grade, while White students were expected to write better essays and were, thereby, given a lower grade.<sup>16</sup> Indeed, other research has suggested that Black teachers are more likely to have higher expectations for Black children than those typically held by White teachers.<sup>17</sup>

***Teacher-child racial match and teacher appraisals.*** The shifting standards hypothesis may be highlighted best in studies that account for racial matching of teachers and students. Data obtained from nationally representative datasets (Early Childhood Longitudinal Study-Kindergarten cohort and National Education Longitudinal Study) have shown that Black students are rated as less disruptive and are suspended less often when they are rated by Black teachers than when they are rated by other-race teachers<sup>18</sup> In that study, Black teachers rated Black students as having better work habits than did White teachers, but they also rated Black students as being more disruptive than did White teachers.<sup>19</sup> The effect size was very large, and the authors surmised that Black teachers may have held Black students to much higher standards of conduct, which resulted in more negative evaluations of their behavior.

More specific to preschoolers, the relationship between teacher-child racial and ethnic match and teacher assessments of children was studied in a large data set of 701 prekindergarten classes across eleven states.<sup>20</sup> Results indicated that at the beginning of the academic year there were no differences in ratings of social skills or behavior problems in either Black or Latino preschoolers based on the race of their teacher. However, Black boys showed greater increases in teacher-rated behavior problem ratings from Fall to Spring when their teacher was White than when their teacher was Black. This finding was consistent with previously discussed findings that suggest that White teachers are more likely than Black teachers to escalate their disciplinary responses (and therefore perhaps their severity appraisals of challenging behaviors) to Black children over time.<sup>21</sup> Downer and colleagues hypothesized that perhaps Black teachers are better equipped to understand the needs of Black boys and that

this understanding may lead to more culturally-aligned and effective early education pedagogy.

The current study sought to address these key questions. Is it possible that teachers' implicit sex and race biases may impact their behavioral expectations, leading them to expect and anticipate more challenging behaviors from some children and therefore pay more attention to those children and scrutinize them more closely? If so, what is the nature of these biases, and how might they change over time as teachers gain more knowledge of the contextual family and community factors that may be explanatory of these behaviors?

## METHODS AND RESULTS

### Participants

Participants were recruited from the exhibit hall at a large annual conference of early care and education professionals ( $N=135$ ). Participants met inclusion criteria if they were: a) current teachers or student teachers in an early childhood or preschool classroom or worked directly with young children and early childhood classrooms in an administrative or consultative role; b) lived and worked in the United States; and c) fluent in English. One teacher withdrew her data following debriefing and two teachers were removed because they were not available for debriefing, resulting in a final sample of 132 participants. Data for 15 participants were lost for Task 1 (described below) due to software malfunction.

The majority of participants were female (93.9%), and identified as White (66.7%) or Black (22%), 77% of whom are non-Hispanic/non-Latino origin. Most (68.2%) were classroom teachers, whereas the rest were student teachers, center directors, and other classroom staff. On average, participants were in the field of early education for 11.0 years ( $SD = 9.1$ ). Participants worked in a variety of settings, including faith-affiliated centers (22.7%), school-based prekindergarten (17.4%), non-profit centers (11.4%), Head Start (8.3%), for-profit centers (7.6%), and other settings (31.8%). Also, in this sample, Black teachers worked in zip codes with a median income much lower than the rest of the sample, as well as worked in neighborhoods with much higher proportions of Black households and households below the federal poverty level.

### Task 1: Eye-Tracking Study

**Procedures:** Participants were seated facing a 15" laptop computer screen in front of a large blue tarp and used headphones during the task to minimize distractions. Once these initial equipment calibration tasks were completed, a

Figure 1

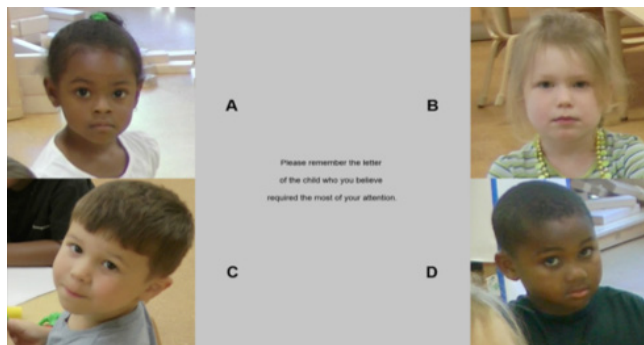


Figure 2



research assistant provided participants with the following instructions:

“Now you are ready to view a series of video clips lasting 6 minutes. We are interested in learning about how teachers detect challenging behavior in the classroom. Sometimes this involves seeing behavior *before* it becomes problematic. The video segments you are about to view are of preschoolers engaging in various activities. Some clips may or may not contain challenging behaviors. Your job is to press the *enter key* on the external keypad every time you see a behavior that could become a potential challenge [experimenter demonstrates]. Please press the keypad as often as needed.”

Although participants were instructed to press the enter key every time they perceived a potential problem, none of the videos contained challenging behavior, and instead incorporated pre-selected preschoolers engaging in traditional classroom activities. Deception was used to elicit participants' unconscious behavioral tendencies and therefore potentially address implicit biases regarding sex and race of the child.

A total of 12 30-second clips composed the six-minute video, and were displayed in semi-randomized order, with a pattern of one free-play clip occurring following two balanced clips (structured activities). Following the administration of the video clips, participants were shown a screen with photos of the four children they had previously seen in the balanced clips (a Black boy, a Black girl, a White boy, and a White girl). Each photo was assigned a letter (A-D) and participants were asked to select the letter of the child who they felt required the most of their attention while viewing the six-minute video clip (Fig. 1). To examine the distribution of attention, the video stimuli were divided into four areas of interest (AOIs; Fig. 2) for the



balanced clip: Black boy, Black girl, White boy, and White girl, and similar AOIs were defined for the free-play clips. The AOIs were defined within each clip by creating a tight perimeter of movable points around each child's body and manipulating the points by the millisecond to follow all movements. The percentage of attention given to children of each race-sex profile was calculated by taking the percentage of time spent scanning within each AOI divided by the total time spent scanning the entire scene, averaged over the 12 clips. To determine if child sex or race was associated with the amount of time participants spent gazing at each child (i.e., dwell time), we calculated the percentage of dwell time on each child over the percentage of dwell time across all children. Gaze trajectories were recorded at a sampling rate of 60 Hz using a SensoMotoric Instruments (SMI) iView REDn device, with eye tracking data processed and analyzed using SMI BeGaze 3.5.<sup>22</sup>

**Results.** Results of linear mixed effects modeling with restricted maximum likelihood revealed main effects for sex and race such that participants spent more time gazing at boys,  $F(1, 3405)=9.39, p=.002, d=.57$ , and at Black children,  $F(1, 3405)=9.64, p=.002, d=.57$ , than at girls and Caucasian children. We also found a significant sex  $\times$  race interaction effect such that teachers spent more time gazing at Black boys,  $F(1, 3405)=6.36, p=.002, d=.47$ , than other children. Upon closer inspection of results, however, it appeared that it may be the sex  $\times$  race interaction effect driving the findings. We therefore applied more conservative statistics (i.e., repeated measures ANOVA) to test whether findings were robust. Results revealed a main effect for race such that participants spent more time gazing at Black children, Wilks'  $\Lambda=.693$ ,  $F(1, 115)=50.87, p<.001, d=1.33$ . No significant main effect was found for sex, Wilks'  $\Lambda=.987$ ,  $F(1, 115)=1.57, p=.213$ . We also found a significant sex  $\times$  race interaction effect such that teachers spent more time gazing at Black boys, Wilks'  $\Lambda=.925$ ,  $F(1, 115)=9.36, p=.003, d=.57$ . Participant race predicted dwell time such that Black participants spent more time gazing at Black boys and spent less time gazing at other children compared to White participants ( $t(96)>2.20, ps<.05$ ). Additionally, when teachers were asked explicitly which of the children required most of their attention, 42% indicated that the Black boy required the most of their attention, followed by 34% (White boy), 13% (White girl), and 10% (Black girl;  $\chi^2(3)=39.09, p<.001$ ). Participant race was not significantly associated with child choice ( $\chi^2(3)=5.33, p=.149$ ).

## **Task 2: Vignette Study**

Participants were presented with a standardized vignette detailing a preschool student with behavioral challenges in a preschool classroom and were instructed to pretend that the child was in their classroom. We standardized the vignette but manipulated child sex and race by selecting stereotypical Black and White girl and boy names (Latoya, Emily, DeShawn, Jake) based on prior research using similar paradigms.<sup>23</sup> Additionally, to understand whether teachers knowing family background might influence behavioral ratings and implicit biases, we included a brief paragraph detailing the child's home environment to provide a context for the behavioral challenges.

### **Standardized Vignette**

[CHILD] (DeShawn, Jake, Latoya or Emily) is a four-year-old in your classroom with unpredictable and challenging behaviors. He/she has daily difficulties napping, following instructions and waiting his/her turn, and his/her challenging behaviors escalate quickly. When other children are playing with toys he/she is interested in, he/she yanks the toys away from them. When asked to return the toy and wait his/her turn, he/she often pushes and hits either you or the other child. During circle time activities, [CHILD] blurts out answers before questions have been asked, does not respond to redirection, and taunts other children whose turn it is to speak, calling them inappropriate names. When you attempt to provide other children with one-on-one attention, [CHILD] often disrupts the classroom by throwing objects and/or bursting into loud laughter. On the playground, [CHILD] interacts roughly with other children, sometimes leaving visible scratches on their arms, and ignores the rules for safe use of equipment. When staff members try to intervene, he/she screams and runs away.

### **Background Information**

[CHILD] lives with his/her mother, his/her 8- and 6-year old sisters, and his/her 10-month-old baby brother. His/her home life is turbulent, between having a father who has never been a constant figure in his/her life, and a mother who struggles with depression but doesn't have the resources available to seek help. During the rare times when his/her parents are together, loud and sometimes violent disputes occur between them. In order to make ends meet, [CHILD's] mother has taken on three different jobs, and is in a constant state of exhaustion.



[CHILD] and his/her siblings are left in the care of available relatives and neighbors while their mother is at work.

We randomized whether participants received the background information vs. no background information. Thus, we used a 2 (child sex: male vs. female)  $\times$  2 (child race: Black vs. White)  $\times$  2 (background vs. no background) design in which teachers were randomly assigned to one of eight conditions. Subsequently, a 2 $\times$ 2 $\times$ 2 $\times$ 2 design was used, adding participant race (White vs. Black).

After participants read the vignette, they rated the severity of the child's behavior on a 5-point scale ranging from 1 (*not at all severe*) to 5 (*very severe*). Next, participants rated the degree to which they felt that nothing could be done to improve the behaviors, using the Hopelessness subscale of the Preschool Expulsion Risk Measure<sup>24</sup> that is based on a scale ranging from 1 (*strongly disagree*) to 5 (*strongly agree*). Finally, participants were also asked to provide an overt rating on a scale of 1 to 5 of their likelihood of recommending that the child in the vignette be suspended or expelled, and if recommending suspension or expulsion, the number of days that they believed would be appropriate disciplinary action. Values were recoded to allow for meaningful analyses (0=never considered to expel or suspend the child, 1=0.5-2 days, 2=3-5 days, 3=more than 5 days). Using a 2 $\times$ 2 $\times$ 2 factorial design, we tested for the main and interaction effects of sex, race, and background information (i.e., no family background and with family background) on severity of behavior, hopelessness, and likelihood and extent of suspension or expulsion.

**Results.** For severity of behavior, we found a main effect trend for child race using a 2 $\times$ 2 $\times$ 2 factorial design, where participants rated White children's behavior as more severe than Black children's,  $F(1, 124)=3.39, p=.068, \eta^2=.03, d=.33$ . No main effects were found for the single indicator item assessing participant's recommendations regarding suspension and expulsion or the number of days to suspend or expel the child. However, there was a participant race main effect, such that Black participants recommended expelling or suspending children more days than White participants,  $F(1, 78)=8.99, p=.004, \eta^2=.10, d=.30$ . One main effect was found for family background information, such that teachers perceived the behaviors of children in general to be more hopeless when presented with family background information than when presented with no background,  $F_s>4.00$  in both full and sub-samples,  $p_s <.05$ . All other statistically significant effects for background were interaction effects and described below.

For severity of behavior, a child race  $\times$  background  $\times$  participant race effect was found,  $F(1,78)=8.99, p=.004, \eta^2=.10$  (Fig. 3). White participants presented with no family background rated White children's behavior as more severe than

Figure 3

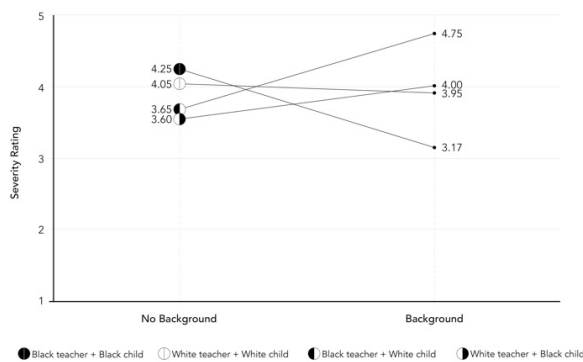
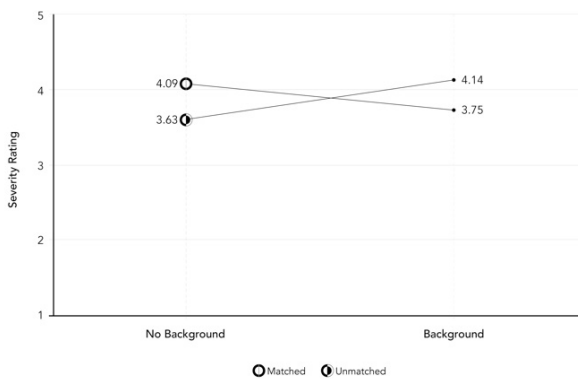


Figure 4



Black children's ( $d=.51$ ), but when presented with family background White participants rated White and Black children's behaviors as equally severe ( $d=.07$ ). Black participants presented with no family background rated Black children's behavior as more severe than White children's behavior ( $d=.62$ ), but when presented with family background Black participants rated White children's behavior as more severe than Black children's ( $d=2.53$ ).

Closer examination of the estimated marginal means presented in Figure 3 show that when Black teachers were provided background information on Black children, severity ratings were depressed. However, teachers having access to background information resulted in increased severity ratings when the teacher was of a race different than the child (Black teacher with White child or White teacher with Black child). This relationship between background information and severity ratings depending on whether the teacher-child race were matched or unmatched is more parsimoniously depicted in Figure 4,  $F(1,90)=5.69$ ,  $p=.019$ ,  $\eta^2=.06$ . Results showed that in-group participants (participants randomly assigned a same-race child vignette) presented with no family background rated the child's behavior as more severe, but with family background their rating of the child's behavior was less severe ( $d=.41$ ). In contrast, out-group participants (participants randomly assigned a different-race child vignette) presented with no family background rated the behavior as less severe, but with family background their rating of the child's behavior was more severe ( $d=.57$ ).

## DISCUSSION

### *Do early educators expect boys, Blacks, and Black boys to misbehave?*

Our findings demonstrate that early education staff tend to observe more closely Blacks, and especially Black boys when challenging behaviors are expected. These findings are important to consider given that no behavioral challenges were present in the videos, suggesting, in part, that preschool teachers may hold differential expectations of challenging behaviors based on the race of the child. This is consistent with the robust literature that evidences disproportionate rates of disciplinary referrals and exclusionary practices for Black boys that are not better accounted for by other factors.<sup>25</sup> Of note, these eye-tracking results closely corresponded with participants' conscious appraisal of which child they felt required the most of their attention, with Black boys being endorsed as requiring the most attention by 42% of early education staff (68% more than expected by chance alone). Additionally, boys in general, were endorsed as requiring the most attention by 76% of early education staff (52% more than expected by chance alone), consistent with research showing that boys (regardless of race) are at greater risk for classroom removal. Regardless of the nature of the underlying biases, the tendency to observe more closely classroom behaviors based on the sex and race of the child may contribute to greater levels of identification of challenging behaviors with Black preschoolers and especially Black boys, which perhaps contributes to the documented sex and race disparities in preschool expulsions and suspensions.

### *Are behavioral expectations by early educators related to biases regarding boys, Blacks and Black boys?*

The nature of these implicit biases appears to differ based on the race of the early educator. When family background information was withheld, White teachers appear to hold Black preschoolers to a lower behavioral standard, whereas Black teachers hold these Black preschoolers to very high standards, pay particularly high amounts of attention to the behaviors of Black boys, and in general tend to recommend harsher exclusionary discipline.

For White early educators, these findings regarding appraisals of severity are consistent with "shifting standards theory,"<sup>26</sup> where an underlying stereotype bias (i.e., Black preschoolers being viewed as more likely to exhibit the challenging behaviors that result in expulsion and suspension) results in a tendency for White teachers to appraise children primarily in contrast with their stereotype (i.e., Black preschoolers compared to expectations for Black preschoolers; White preschoolers compared to expectations for White preschoolers). In other words, perhaps White early education staff tend to hold an implicit bias that Black preschoolers are more likely to engage

in challenging classroom behaviors, so a vignette about a Black child with challenging behaviors is not appraised as being unusual, severe, or out of the ordinary resulting in lower behavioral ratings. In the case of the present study, a vignette describing pronounced challenging classroom behaviors, in the absence of any potentially explanatory family background information, may not seem very severe at all *for a Black child*.

These potentially lower expectations held for children based on race can have detrimental consequences over time, with low expectations, particularly for minority children, being linked to less favorable outcomes.<sup>27</sup> As an alternative explanation, perhaps White educators simply are reluctant to express negative appraisals of performance for students of color. However, if the White participants were simply displaying an avoidance of negative appraisals of Black children on the vignettes, it remains puzzling why those same White participants would display a clear tendency to gaze longer at the Black children and endorse the Black boy at a higher rate during the eye-tracking task.

In contrast, for Black early educators, these severity findings may represent higher expectations held by Black educators for Black students. These findings might suggest that more severe behavior ratings could reflect higher standards by Black educators for Black children.<sup>28</sup> For both Black and White early educators, these differing biases may be based on an expectation of Black children engaging in more frequent challenging classroom behaviors, consistent with what was found during the eye-tracking task across all participants, especially Black participants in relationship to their expectations regarding Black boys.

***What impact might teacher knowledge of child familial stressors have on their ratings of behavioral severity?***

When Black teachers rating Black children were provided with background information that included familial stressors that may be explanatory of child behavior problems (as might be learned during the course of a year of interacting with the child and family), ratings of perceived severity significantly decreased. However, when the same background information for Black children was provided to White teachers, severity ratings increased in ways consistent to the overall finding that background information regarding familial stressors may lead to feelings of hopelessness that the behavior problems can improve. These findings are consistent with studies showing a tendency for raters (applied here to teachers) to show greater empathy for the misfortunes of others (applied here to a challenging set of home circumstances) when rating someone of their own race.<sup>29</sup> Furthermore, the strength of same-race empathic responses in individuals has been shown to be related to the strength of their underlying implicit racial biases.<sup>30</sup> Perhaps Black teachers are better equipped

to use this background information regarding familial stressors to empathize with Black children,<sup>31</sup> whereas the same information regarding family stressors for Black children tends to overwhelm White teachers. Of note, background information about familial stressors also caused the Black teachers to increase dramatically severity ratings for White children, as well as for White teachers to rate Black and White children similarly.

Recent findings<sup>32</sup> show that although preschool teacher ratings of child behavior problems at the beginning of an academic year show no significant differences based on teacher-child racial match, significant differences do emerge by the end of the year such that White teachers (relative to Black teachers) identify more challenging behaviors in Black boys. Downer and colleagues speculated, with support from the published literature, that this may be due to Black teachers' increased ability to understand the cultural context of Black children's lives and to use that knowledge to better understand and respond to their educational needs. Results of the current study provide support to this speculation while also raising the question of whether same-race teacher empathy may also be contributory. The current findings may provide insight into why White preschool teachers are more likely to report increased behavioral challenges in Black preschoolers over the course of a school year, whereas Black teachers do not.

***Are early educators more likely to recommend expulsion or suspension or more days of exclusion for boys, Blacks, and Black boys?***

Contrary to hypotheses, child sex and race showed no relationship to early education staff's recommendations to expel or suspend, or to the recommended number of days of exclusion. However, Black early education staff recommended more days of disciplinary exclusion across all children than did White early educators. More needs to be learned about the extent to which Black teachers may be more likely to exclude Black children, and specifically Black boys, given that Black early education staff showed tendencies to (a) watch Black Boys especially closely when expecting a challenging behavior, (b) rate the behaviors of Black preschoolers more severely in the absence of family background information, and (c) recommend harsher disciplinary exclusions in general.

In grades K-12 expulsions and suspensions are more common in America's southern states<sup>33</sup> and in schools and school districts that have higher concentrations of students of color and students living in low-income families.<sup>34</sup> If Black early educators are more likely to teach in communities with higher proportions of Black preschoolers, and have less access to needed resources, then these tendencies toward greater scrutiny of Black students and harsher discipline in general observed in the current study may contribute to the

increased likelihood of preschool expulsions and suspensions with Black children and Black boys more specifically. This hypothesis seems plausible—in the current study, based on the zip codes of the location of the centers where early education staff worked, Black teachers worked in zip codes with significantly lower median household incomes and greater percentages of Black households and families living below the federal poverty level. The findings suggest that Black early educators may be more likely to work in communities with greater levels of economic need and perhaps lower levels of resources, which could contribute to expulsion and suspension rates.

## LIMITATIONS

Several limitations are noted in the current study. First, although eye-tracking videos were filmed using actors and the footage was reviewed to ensure that no challenging classroom behaviors were presented, it is possible that individual children may have engaged in subtle behaviors (degree of movement, degree to which their face was aligned with the camera, proximity to other children, etc.) that may have cued the attention of the participants and led to increased gaze time on these children. Second, because only one behavioral vignette was used, it is impossible to determine what the results would have been had the vignette described behaviors of lower severity. Third, the vignette study could have been improved by having a “control” condition where the sex and race of the described child was not provided. This would have allowed better identification of the degree to which observed boy/girl and Black/White differences represented departures from a controlled center point. Fourth, it is unclear whether participants would have rated behaviors as more hopeless in the presence of the same background information with additional indications of strong parent-teacher partnerships—an important factor that appears to minimize exclusionary practices in preschools. Fifth, while the use of a standardized vignette strengthened the internal validity of the current study, we were unable to account for the developmental and transactional nature of the teacher-child relationship that unfolds in an actual classroom,<sup>35</sup> nor were we able to explore how other classroom or community factors influence teacher perception of challenging behavior—all considerations for future research. Sixth, although a strength of the present study is its reliance on a sample of early education staff representing the diversity of the nation and the early childhood field, there are several potential limitations to generalizability. The early educators who participated in the present study were attending an annual conference and expo of a national/international early childhood education conference. As such, the participants in this study were motivated to attend a professional conference, had the personal or employer financial means to



attend, and were perhaps in a very good mood enjoying the conference and the surrounding entertainment options.

## CONCLUSIONS AND IMPLICATIONS

Preschool expulsions and suspensions disproportionately deny access to early education to boys, Blacks, and especially Black boys.<sup>36</sup> The findings in the current study attempt to elucidate underlying processes that contribute to the well-documented racial disparities in school readiness and subsequent educational- and later-life achievement and opportunity. Fortunately, recent research suggests that implicit biases may be reduced through interventions designed to either address biases directly<sup>37</sup> or increase teachers' empathy for children.<sup>38</sup> Useful guiding principles by which early educators may explore and discover their own implicit biases and strive to deliver more equitable services may also prove helpful.<sup>39</sup>

In the course of teacher-family interactions, early educators may learn more about the struggles, and strengths, of the families they serve. However, it seems likely that teachers may benefit from increased training and ongoing guidance, perhaps through services such as early childhood mental health consultation,<sup>40</sup> to understand how best to use this information, increase their empathic understanding of the child, and avoid feelings of hopelessness, especially when teacher and child race do not match. Given the significance of this issue, serious consideration should be given to a potential role for evidence-based bias-reducing interventions as a core component of preservice and ongoing in-service early childhood teacher training.

Also, greater home school collaboration and parental involvement in Head Start programs has been shown to predict less harsh child discipline by parents and improved school behaviors,<sup>41</sup> raising the question of whether greater connections between parents and early educators may also predict less harsh discipline (e.g., expulsions and suspensions) by early educators. Indeed, very recent efforts to reduce exclusionary school discipline practices through scalable and near zero-cost interventions designed to increase middle school teachers' capacities for student empathy have yielded very promising results in terms of decreased suspension rates.<sup>42</sup> Future work in this area should explore the potential protective effects of better home-preschool connections and early educators' emotional connectedness to the parents and families they serve and the impact this may have on preschool expulsions and suspensions.

Biases are inherent attributes that all humans possess and form naturally through the course of everyday interactions and exposure to media.<sup>43</sup> These biases can become very harmful, however, when beliefs about groups lead to

unquestioned assumptions about individuals within those groups, especially when empathic responses do not engage. When these assumptions lead to important decisions regarding how we choose to educate our youngest citizen learners, or deny educational opportunities through preschool expulsions and suspensions, the potential for lasting harm is great.

## ENDNOTES

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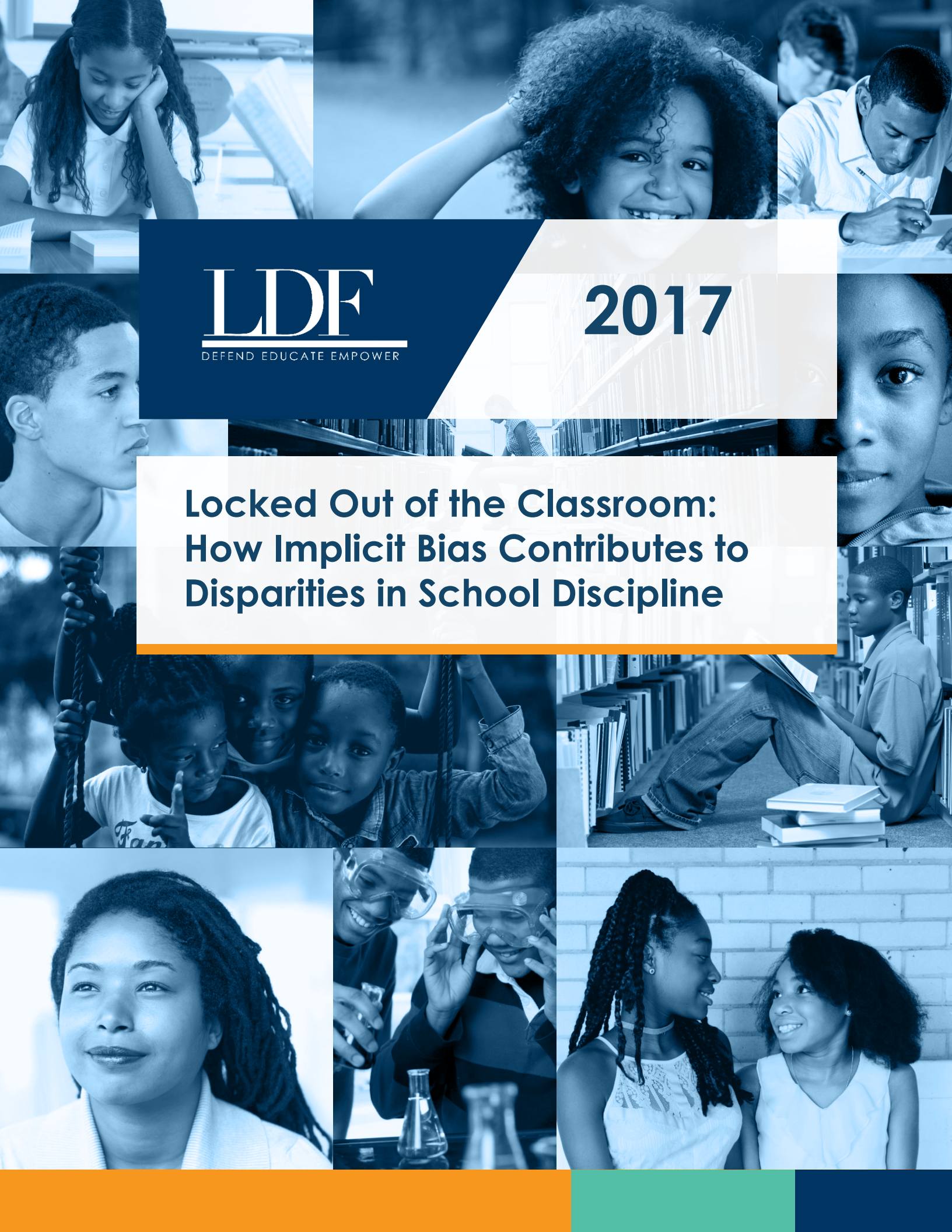
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# **Exhibit D**



2017

# Locked Out of the Classroom: How Implicit Bias Contributes to Disparities in School Discipline







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The NAACP Legal Defense and Educational Fund, Inc. (LDF) is the first and foremost civil and human rights law firm in the United States. Founded in 1940 under the leadership of Thurgood Marshall, LDF's mission has always been transformative – to achieve racial justice, equality, and an inclusive society. LDF's victories established the foundations for the civil rights that all Americans enjoy today. In its first two decades, LDF undertook a coordinated legal assault against officially enforced public school segregation. This campaign culminated in *Brown v. Board of Education*, the case that led to the unanimous landmark Supreme Court decision in 1954 that outlawed legalized racial segregation nationwide. Today, through litigation, advocacy, and public education, LDF continues to advance issues of education, voter protection, economic justice and criminal justice. LDF has been a separate organization from the NAACP since 1957.

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## Executive Summary

While racial segregation in schools has been unconstitutional for over fifty years, Black students continue to face discrimination in the form of excessive school discipline. Like the legally sanctioned racism their grandparents endured, Black students today are subject to discriminatory behavior by the individuals they should trust most at school – teachers and principals. Compounding matters, in many cases, teachers and administrators may not know they are disproportionately targeting students of color for discipline. Rather, their behavior may be based on more subtle, subconscious beliefs, commonly referred to as implicit bias. Though subtle, these beliefs, and the racial stereotyping that results from them, can create a lifetime of serious, negative consequences for racially stigmatized students, ultimately causing them to distrust their teachers and to disengage in the classroom.

Civil rights advocates have long been aware of racial disparities in school discipline. As early as 1974, civil rights advocates highlighted that Black students were 2 to 3 times more likely to be suspended than White students.<sup>1</sup> Sadly, little progress has been made in reducing these disparities. In 2012, for example, Black students made up only 16% of students in the United States, but accounted for 42% of out-of-school suspensions.<sup>2</sup> Black students were over three times more likely than White students to be suspended or expelled from school.<sup>3</sup> Once a Black student is suspended, he or she becomes entrapped in a repeated cycle of disproportionate discipline; a student who is suspended once is more likely to get suspended again.<sup>4</sup> The consequences of school discipline on children are not limited to just their experiences in school. Once a Black student is suspended, the chances that he or she will drop out of school, become unemployed or underemployed, and enter the criminal justice system rise dramatically.<sup>5</sup>

Over the last twenty years, discriminatory school disciplinary systems have contributed considerably to the disproportionate rates of punishment of Black students. Zero-tolerance policies of the 1990's initially targeted violent, gun-related

crimes in schools,<sup>6</sup> but quickly expanded to include non-violent offenses.<sup>7</sup> School districts implemented local policies that called for students to be suspended or expelled from school for less serious, discretionary offenses like defiant behavior and tardiness.<sup>8</sup> Because these offenses had no set definition, they afforded teachers and administrators broad discretion to take action against a student who was perceived to be committing them.

The inclusion of discretionary offenses for which students may be suspended has disproportionately harmed Black students even though Black students are more likely to act out in school. Research has consistently established that Black students do not have higher rates of misconduct than other students.<sup>9</sup> Rather, Black students are disproportionately disciplined for more subjective offenses, such as disrespecting a teacher or being perceived as a threat, than their White counterparts.<sup>10</sup> These disparities result from and perpetuate stereotypes about Black students, specifically the stereotype that they are aggressive and dangerous.

Only recently have we fully understood that not only do such disparities perpetuate stereotypes regarding students of color, but are themselves the product of stereotypes subconsciously present in almost all of us. Every day, each of us is exposed to a variety of media that communicate negative stereotypes about persons of color. These stereotypes, unknowingly, affect behaviors of all people, including teachers. Teachers develop implicit biases that cause them to interpret otherwise innocent behavior as part of a pattern of negative behavior inherent in the student. Paired with disciplinary codes that define misconduct in vague terms, stereotypes significantly shape teacher decisions as to which students they punish. These discriminatory behaviors affect not only teachers, but the students who are their victims. Reacting to years of discriminatory treatment, students may adjust their behavior, reacting coldly to teachers with whom they are not familiar, fearing that the teacher, like others, will unfairly target them for discipline.

Fortunately, researchers have not only recognized the effects of these biases in schools, but have begun to develop techniques to address their effects. While the biases themselves may never be eliminated, their effects in schools can be limited through a variety of interventions that can help improve the relationship between teachers and students. Recent research has shown that interventions that prioritize: 1) "wise feedback" from teachers in place of punitive, dismissive discipline; 2) "social belonging" as students enter a

new school environment; and 3) "empathic discipline" that attempts to understand perceived misbehavior from the student's perspective, can begin to limit the effects of implicit bias and related concepts in the classroom. Combined with the rescission of policies that allow for the suspension of students for relatively minor, discretionary offenses, and the removal of school resource officers, we can reduce the disparities that have long plagued children of color.





# What We Know: Black Students Are Disproportionately Disciplined, Particularly for Discretionary Offenses.

## Black Students Are Disproportionately Disciplined

We have long known that administrators, teachers, and school resource officers disproportionately discipline African-American students. The latest statistics, which the U.S. Department of Education released just last year, confirm a troubling pattern of which civil rights advocates have long been painfully aware. “While 6% of all K-12 students received one or more out-of-school suspensions, the percentage is 18% for black boys; 10% for black girls; 5% for white boys; and 2% for white girls.”<sup>11</sup>

These disparities exist among even the youngest students. As the U.S. Department of Education has acknowledged, the over-disciplining of Black students begins as soon as they start school. “Black preschool children are 3.6 times as likely to receive one or more out-of-school suspensions as white preschool children.”<sup>12</sup> Although, “Black children represent only 19% of preschool enrollment,” they account for “47% of preschool children receiving one or more out-of-school suspensions[.]”<sup>13</sup> By contrast, “white children represent 41% of preschool enrollment, but [only] 28% of preschool children receiving one or more out-of-school suspensions.”

These disparities exist regardless of student gender.<sup>14</sup> “Black boys represent 19% of male preschool enrollment, but 45% of male preschool children receiving one or more out-of-school suspensions. Black girls represent 20% of female preschool enrollment, but 54% of female preschool children receiving one or more out-of-school suspensions.”<sup>15</sup>

Black students continue to be disproportionately disciplined as they progress through school. Overall, “Black K-12 students are 3.8 times as likely to receive one or more out-of-school suspensions as white students. Black girls are [only] 8% of enrolled students, but 13% of students receiving one or more out-of-school suspensions.”<sup>16</sup>

These disparities persist as the punishments increase. Black students are almost twice as likely to be expelled from school without educational services as white students.<sup>17</sup> “Black boys represent 8% of all students, but 19% of students expelled without educational services. Black girls are 8% of all students, but 9% of students expelled without educational services.”<sup>18</sup>

These disparities raise serious concerns under Title VI of the Civil Rights Act of 1964.<sup>19</sup> Title VI prohibits discrimination on the basis of race, color, or national origin by any program that receives federal financial assistance.<sup>20</sup> The illegality of the racial disparities is further exacerbated by the fact that, in many jurisdictions, they are due to suspensions for vague and relatively minor, discretionary offenses.

## Frequently, Black Students are Punished for Discretionary Offenses

Increasingly, Black students are punished for discretionary offenses with vague definitions that allow school officials broad discretionary authority to determine whether a student should be disciplined.

For example, in 2015, Texas Appleseed and the NAACP Legal Defense and Educational Fund, Inc. completed a comprehensive review of school discipline data from the Bryan Independent School District in Texas. Analysis of the data revealed disturbing results. The disproportionate ticketing and arrest of African-American students was especially stark for the offenses that are most subject to the discretion of teachers, school administrators, and school police officers. Although African American students made up approximately 12-13% of the student population, they received approximately 46% of tickets for “disruption of class”—a vague, subjective offense.<sup>21</sup>

While the Texas legislature prohibited the ticketing of students for disrupting class in September 2013, the disproportionate ticketing of Black students simply shifted to a different, discretionary offense. Following the ban on tickets for disruption of class offenses, the proportion of citations issued to African-American students for the similarly subjective offense of “disorderly conduct” increased from 47% to 61%.<sup>22</sup> This increase in disorderly conduct tickets occurred despite an overall decrease in ticketing.<sup>23</sup> While citations for white students decreased from 28% to 15%, between 2012 and 2015, African-American students continued to be ticketed at disproportionately high rates.<sup>24</sup> This included relatively young children. African-American students between 11 and 13 years old received 33% of all citations issued to their age group.<sup>25</sup>







**These Problems Have Been Exacerbated by the Increase in School Resource Officers.**

These problems have worsened as schools have increasingly come to rely on school resource officers (SROs) who lack the necessary training to work with students, but rather are focused on the punishment and removal of students. Nationwide, police presence in schools has become ubiquitous. Nearly a quarter of elementary schools and 42% of high schools have SROs.<sup>26</sup> According to the U.S. Department of Justice, 19,000 police officers are stationed in schools across the United States.<sup>27</sup> Over three in four high schools and the vast majority of schools with 1,000 or more students have armed security staff.<sup>28</sup> Schools where at least half of the students are of color, as well as high-poverty schools (meaning those where at least 75% of students are eligible for free or reduced-price lunch), are home to the highest percentages in the country of K-12 school law enforcement.<sup>29</sup>

The presence of police in schools disproportionately impacts students of color. Between 2012 and 2014, African American students made up approximately 12-13% of the student population, but accounted for approximately 36% of all tickets issued by SROs and 39% of arrests made by SROs.<sup>30</sup> Altogether, “[b]lack students are 2.3 times as likely to receive a referral to law enforcement or be subject to a school-related arrest as white students.”<sup>31</sup>

Over the past several years, parents and education advocates have repeatedly confronted and challenged SRO violence against students of color. In many cases, SROs have reacted violently to innocent behavior by Black students:

- In October 2015, a cell phone video captured a South Carolina SRO violently flipping a female student who was seated at a desk, despite the fact that she posed no threat to the officer or her fellow students.<sup>32</sup> After the assault, the student’s arm was placed in a cast and she reported neck and back injuries.<sup>33</sup> In April 2016, DOJ reached an agreement with Richland County requiring the Sheriff’s Department to provide intensive annual training to officers working in schools.<sup>34</sup>

- A video from November 2015 documented a SRO in Florida grabbing a 13-year old African-American youth, slamming him to the ground, and then twisting his arm for approximately 40 seconds, while the student writhed in pain.<sup>35</sup> As police documents revealed, the student “never showed any aggression toward [the officer].”<sup>36</sup>

- In October 2015, a SRO in Oklahoma City, Oklahoma was charged with punching a student in the face after a dispute over a hall pass.<sup>37</sup> A video of the incident captured the officer approaching the student at a drinking fountain.<sup>38</sup> After the student walked away from the officer, the officer pursued the student and punched him multiple times.<sup>39</sup>

- In April 2016, the parents of three children filed a lawsuit alleging that a SRO in Abilene, Texas violently assaulted them on three separate occasions without justification.<sup>40</sup> The SRO “used a ‘pain compliance’ maneuver called an arm-bar against a six-year-old kindergarten student, a chokehold against a twelve-year old student, and repeatedly slammed a fifteen-year old student against the wall and to the ground.”<sup>41</sup>

- In March 2016, three Baltimore SROs were placed on administrative leave after a video captured one of the officers slapping a young man three times – one slap loud enough to hear a pop – and then kicking him while yelling profanities.<sup>42</sup> Baltimore Mayor Stephanie Rawlings-Blake stated that “[t]he behavior . . . is certainly something you never want to see. . . . Certainly not a school officer acting in this way, particularly with a young person.”<sup>43</sup>

- A video from March 2015 captured a Louisville, KY SRO picking up a 13-year old by his neck and choking him until he went limp, after the youth playfully attempted to push the officer.<sup>44</sup> After the incident, the middle-schooler dropped to the ground, where he didn’t move for more than 20 seconds.<sup>45</sup> Another officer later testified that the officer’s actions were “consistent with strangulation.”<sup>46</sup>

- In April 2016, a SRO in San Antonio, TX was fired after a video captured him body-slammng a sixth grade girl.<sup>47</sup> After he slammed the girl down, a loud crack was heard and the surrounding crowd grew silent.<sup>48</sup> After the incident, the officer attempted to justify his actions, but the video of the incident directly contradicted his report.<sup>49</sup>

- In 2010, the Southern Poverty Law Center filed a lawsuit on behalf of eight high school students in Birmingham, Ala., all of whom had been pepper-sprayed by SROs.<sup>50</sup> In October 2015, a federal judge ruled that the officers had used excessive and unconstitutional force when they sprayed students for minor misbehavior at school.<sup>51</sup> The Court rejected the “eyebrow-raising position that school children are less deserving of protection from harm at the hands of overzealous law enforcement officers than adults.”<sup>52</sup>

- Since 2011, there have been at least 84 incidents in which SROs tasered students, some of whom were as young as 12.<sup>53</sup> Students were tasered for, among other things, “mouthing off to a police officer” and “trying to run from the principal’s office.”<sup>54</sup>

Reliance on SROs compounds the problems discussed above by ignoring the root causes of alleged student misconduct. Rather than identifying and developing the supports necessary to assist students with behavioral problems, SROs exacerbate these problems and significantly alter the role of education in students’ lives. SROs are more likely to interpret minor behavior such as interrupting class or being disrespectful to teachers as criminal behavior.<sup>55</sup> This results in unnecessary arrests that increase the likelihood that a child will end up in the juvenile-justice system, and later, prison.





**Disproportionate Discipline Has Long Term Consequences for Black Students**

The effects of disparities in discipline, particularly when they involve expulsion, arrest and/or incarceration, continue to be felt by black students throughout their lives. Once a student is identified as a potential “troublemaker” he or she is repeatedly subject to discipline, often of increasing severity. For example, a child who is expelled or suspended is more than twice as likely to be arrested within the same month as compared to a child who had not been previously suspended during the same month.<sup>56</sup> Once a student is involved in the criminal justice system, the problems grow exponentially. A recent study found that juvenile incarceration “reduces the probability of high school completion and increases the probability of incarceration later in life.”<sup>57</sup> Even when the study controlled for potential confounding factors, the relationships remained strong. Individuals incarcerated as juveniles were 39 percentage points less likely to graduate from high school and were 41 percentage points more likely to have been incarcerated by the age of 25 compared to other public school students from the same neighborhood.<sup>58</sup> Moreover, having a criminal record can create lifelong barriers to opportunity, including the ability to obtain employment, housing, or an education.<sup>59</sup>

Despite common knowledge of these disparities and their consequences, relatively little progress has been made to reduce them. This failure is due to a variety of factors, including the proliferation of zero-tolerance school discipline policies concerning discretionary offenses and the increase in school resource officers. However, what has yet to be fully acknowledged, is that these disparities may, in part, be the result of teachers’ and administrators’ implicit biases affecting the way they interpret student behavior. Thankfully, researchers have begun to explore these topics, identifying key concepts that may not only be relevant to policing, but also discipline in schools.

**What is Implicit Bias and What Do We Know About Its Effects?**

Despite the fact that most teachers and school staff are committed to the fair and equal treatment of students, regardless of race, disparities in discipline have persisted for several years. According to research by various social scientists, this paradox may be the result of the role that “implicit bias” and other related concepts play in each of our lives.<sup>60</sup> Social scientists have identified a handful of key concepts that not only impact policing and consumer interactions, but are also relevant in the educational context.

**Implicit Bias**

Implicit bias refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.<sup>61</sup> These biases, which encompass both favorable and unfavorable assessments, are activated involuntarily and without an individual’s awareness or intentional control.<sup>62</sup> Residing deep in the subconscious, these biases are different from known biases that individuals may choose to conceal for the purposes of social and/or political correctness. Because these biases are activated subconsciously, relying on them requires relatively little mental effort. When an individual finds him or herself in a new situation with a person with which he or she is unfamiliar, an individual may rely on such stereotypes, rather than consciously assessing the situation.

Implicit bias has been studied extensively in a variety of contexts. For example, studies show that bias can lead service providers, as well as police officers, to treat identical individuals differently depending upon the perceived race, religion, or ethnicity of the individual.<sup>63</sup> Implicit bias affects a person’s behavior, impairing communication between staff and consumers, as well as impacting the treatment of consumers by staff.<sup>64</sup> Fortunately, recent studies have identified specific practices that have been shown to reduce and over-ride implicit biases that can interfere with best practices in consumer and police interactions.<sup>65</sup>

**Racial Anxiety**

In addition to implicit bias, psychologists have also identified “racial anxiety” as a cause of discriminatory interactions. “Racial anxiety” refers to the heightened levels of stress and emotion that individuals confront when interacting with persons of other races.<sup>66</sup> For example, minorities, having been victims of discrimination throughout their lives, fear that they will be the subject to discrimination and hostility even when interacting with individuals whom they have never met.<sup>67</sup> Non-minorities, meanwhile, worry that they will be assumed to have biased beliefs. Studies have shown that interracial interaction can cause physical symptoms of anxiety and that our non-verbal behaviors – making eye contact, using welcoming gestures or a pleasant tone of voice, for example – can be affected as well.<sup>68</sup> The net result is that incidents that could otherwise be easily resolved – e.g., an individual not understanding a police officer’s request – unnecessarily escalate, while endangering the individual. Fortunately, as with implicit bias, studies have identified practices to reduce and manage racial anxiety for both racial minorities, as well as nonminorities.<sup>69</sup>

**Stereotype Threat**

Finally, psychologists have identified “stereotype threat” as a potential source of conflict in interactions with police officials. Stereotype threat is the concern that an individual’s behavior will confirm a negative stereotype about the identity group to which the individual belongs.<sup>70</sup> Stereotype threat often arises in situations in which a person’s identity is salient because their identity group is associated with a particular behavior in a particular context.<sup>71</sup>

Stereotype threat may arise in various contexts. Persons of color may be aware that they will be subject to additional scrutiny, particularly if they are perceived to be acting strangely or anxiously. Ironically and unfortunately, being conscious of such may lead them to behave anxiously, thus raising precisely the concerns that may trigger additional scrutiny. Fortunately, over the past decade, a broad array of institutional practices have emerged that can prevent stereotype threat from being triggered in the policing, as well as the consumer context.





### Summary of Key Terms and Concepts

**Discrimination** Actions based on prejudicial beliefs regarding, among other things, a person's race, religion, gender or sexual orientation. For example, a young man denied a job because he is Black has been the victim of discrimination, regardless of whether he was denied due to explicit or implicit bias.

**Explicit v. Implicit Bias** Explicit bias is a conscious attitude, i.e., a belief of which one is conscious, while implicit bias is a subconscious attitude, i.e., a belief of which an individual is unaware. Attitudes about race can be processed both implicitly and explicitly.

**Prejudice** Attitudes about another individual based on that person's membership in a certain social group. For example, the false belief that because a young man is Black, he is dangerous.

**Racial Anxiety** "Racial anxiety" refers to the heightened levels of stress and emotion that individuals confront when interacting with persons of other races. For example, minorities, having experienced discrimination throughout their lives, fear that they will be the subject of discrimination and hostility even when interacting with individuals whom they have never met. Studies have shown that interracial interaction can cause physical symptoms of anxiety, which police officials, and other individuals in positions of authority, may misinterpret.

**Stereotype** A mental association about a person's attitudes or actions based on the person's membership in a group. These associations are largely created by the various media sources all of us have been exposed to since birth. A police officer may have a negative association with a Black person based on the person's race without realizing it.

**Stereotype Threat** Stereotype threat is the concern that an individual's behavior will confirm a negative stereotype about the identity group to which the individual belongs. Persons of color may be aware that they will be subject to additional scrutiny, particularly if they are perceived to be acting abnormally. Ironically and unfortunately, being conscious of such may lead them to behave anxiously, thus raising precisely the concerns that may trigger additional scrutiny.



## How Does Implicit Bias Manifest Itself in Schools?

Recent research suggests that implicit bias and its effects are not limited to only the consumer or policing contexts. Rather, implicit bias, and the related concepts discussed above, are directly relevant to discipline in the classroom, particularly as police officials become more involved in the punishment of students for in-class behavior. Psychologists are beginning to understand that the cause of the extremely high levels of discipline meted out to Black students is due, in part, to a two-way social-psychological dynamic between teachers and students, stemming from stereotyping and bias.

As noted above, stereotyping is a tool the mind uses to save mental resources and make quick judgments about others in situations of uncertainty. Research shows that people are more likely to exhibit behavior based on stereotyping and bias when their knowledge of others is ambiguous.<sup>72</sup> Less mental energy is needed to rely on a stereotype than is needed to think through a situation.<sup>73</sup> Accordingly, unless directed to act otherwise, a teacher when interacting with a new student of a race different than his or her own may automatically draw conclusions regarding the student and his or her behavior, without any legitimate basis to do so.

This process can play out as follows in the classroom.<sup>74</sup> Darnell, a Black boy in the 7th grade enjoys learning about science. His teacher, Mrs. Smith, a white woman, is excited about inspiring students. Like almost all Americans, both Darnell and Mrs. Smith have been continuously exposed to negative stereotypes about or racial bias against Black boys in school through various forms of media. One day, Mrs. Smith observes Darnell throwing paper airplanes across the classroom. Mrs. Smith unconsciously interprets the misbehavior as confirmation that Darnell is a "bad kid." When Mrs. Smith sees the same or similar behavior from Darnell later that week, she wants to punish him more harshly, believing his action to not be a relatively innocent childlike behavior, but rather a reflection of his supposedly poor and disobedient character. In turn, this can confirm Darnell's concerns regarding the teacher's discriminatory motive and his fear that he is not accepted in the school or the classroom. As a result, Darnell cooperates even less with Ms. Smith and other teachers. The situation unnecessarily escalates, as Darnell is entrapped in the school-to-prison pipeline, in which he is continuously punished more severely.



The example above illustrates how stereotypes and the implicit biases that result can create barriers between teachers and students, shaping their actions and responses to one another. As the school year progresses, these stereotypes and their effects wear away at the teacher-student relationship. The negative perceptions and behaviors continue to reverberate, and minor disputes lead to major infractions. Though they do not realize it, stereotypes affect Mrs. Smith and Darnell, and they miss the opportunity to connect with each other.

Teacher-student relationships are a key determinant of discipline problems, and they appear to work cyclically.<sup>75</sup> Disciplinary problems can strain the relationship, and as the relationship deteriorates, disciplinary problems escalate. The effects of this chain can be serious, and for some students, life-altering. As noted above, in many jurisdictions, disrespect, expressed by insubordination or classroom disruption, is one of the most common reasons teachers refer students, especially Black students, for disciplinary action.<sup>76</sup>

These concerns are not merely conjectural, but have been borne out by recent studies examining how teachers' assumptions about Black students lead to a deterioration of the student-teacher relationship. Researchers from Stanford University gave K-12 school teachers records describing two misbehaviors over the course of four days by a student and asked them how they would respond.<sup>77</sup> The teachers all received the same records, but were randomly assigned to read about different students in the incidents. Half of the teachers read about a student with a stereotypically Black name (Darnell or Deshawn) while the other half read about a student with a stereotypically White name (Greg or Jake).<sup>78</sup> Teachers reported more negative responses to the misbehavior if it was by a student they believed to be Black, as opposed to a student they believed to be White.<sup>79</sup> Teachers reported that the misbehavior was more severe, felt more hindered by it, and felt more irritated by the Black student.<sup>80</sup> Teachers also expressed a desire to discipline the Black student more severely for the misbehavior and were more likely to anticipate that the Black student would be suspended in the future.<sup>81</sup> Further, researchers found that the racial disparity in the teachers' responses was due to the fact that they were more likely to believe the Black student was a troublemaker.<sup>82</sup>

Discipline issues impact both teachers and students. Most teachers enter the profession wanting to inspire children to fulfill their potential and reach their educational goals,<sup>83</sup> but teachers can struggle to achieve that goal when they believe they are unable to maintain control over their classroom. This leads many teachers to become disheartened and increases the likelihood that they will leave the profession.<sup>84</sup>

One teacher expressed the following regarding her frustrations with classroom discipline:

*For the most part, I truly enjoy being with the students. But the amount of time I spend trying to get them to stop having side conversations, stop hitting each other, stop cursing, stop walking around the classroom for no reason, etc., is frankly absurd...The day-to-day efforts of managing their classroom behaviors — getting everyone quiet, focused, back on task every time someone starts talking — takes up an inordinate amount of time that should go into instruction.*

-A high school teacher (Education Week, 2013).<sup>85</sup>



For students, discipline problems can lead to anxiety, disengagement from school and an increased likelihood that they will eventually drop out of school. Racially stigmatized children, who have experienced stereotypes and bias, often from a very young age, become increasingly aware of racism as they reach adolescence.<sup>86</sup> With this awareness, students may develop anxiety about fitting in at their school as a result of their race.<sup>87</sup> Black students' internalization of the racial bias in school only confirms what they have already experienced from an early age.

The school environment becomes a place where the student mistrusts his teacher and feels like an outsider, rather than a place that promotes his or her trust and sense of belonging in the world. The student-teacher relationship is a long-term one, and is often the child's first introduction to socialization in the world outside of his or her immediate family. It can be especially threatening to a Black student when a teacher confirms fears that the child may already have about bias and stereotyping in the world.<sup>88</sup> The student's worries about fitting into the school environment can ultimately contribute to underperformance in school and disengagement from classroom activities, which can be interpreted as misbehavior.<sup>89</sup>

New research contends that both the student and teacher perspectives are important in addressing implicit bias and its effects in schools. A more holistic approach—one that considers the predicaments of both teachers and students—gives us a better understanding of how relationships can go awry and of how to shift relationships towards a healthier path. The goal of these social interventions is not to de-bias teachers. Rather, this new body of research attempts to solve disparities in school discipline by curbing the impact of implicit bias in the process of decision-making.





## What Can Be Done to Limit the Effects of Implicit Bias in the Classroom?

For years, teachers and principals have believed that taking a child who is misbehaving out of the classroom would improve the student's behavior, while preventing his or her classmates from being distracted. Research, however, shows that removing students from school has negative consequences that reach far beyond the classroom. As detailed in the previous section, traditional forms of punitive punishment, like suspension, negatively affect students and teachers. According to a 2016 study, the cost of suspensions for 10th graders in Florida and California alone exceeded \$35 billion annually when taking in factors like criminal justice costs, higher healthcare costs, and lost tax revenue.<sup>90</sup> The bottom line is that everyone loses.

Not only are such responses deeply damaging to students and society, but as noted above, they fail to respond to the implicit biases that can play a significant role in perpetuating the perceived disruptive behavior. As a result, the situation is likely to repeat itself with other students of color. Thankfully, researchers, as well as advocates have begun to convince districts to employ more effective and efficient interventions that directly address the impact of implicit bias.

Many schools are starting to integrate restorative methods that refocus disciplinary strategies into opportunities to nurture relationships. These new strategies follow a body of research conducted over the last decade.<sup>91</sup> Initial research attempted to combat implicit bias by eliminating individuals' personal biases. The tested strategies ranged from increasing awareness of implicit bias by talking about racial injustice to teaching the values of different minority groups through workshops and trainings.

However, current research shows that many of these efforts are by themselves ineffective.<sup>92</sup> Awareness of bias has not, by itself, been shown to have a lasting effect on a person's behavior. More recent research has taken a slightly different approach, by placing additional focus on combating the effects of implicit bias, as well as the biases themselves.



Three recent approaches have shown great promise to combat the effects of implicit bias in schools. The "Wise Feedback," "Social Belonging," and "Empathic Discipline" interventions employ various techniques to shift student and teacher mindsets to ones more conducive to avoiding processes that implicate implicit biases and cause the deterioration of the student-teacher relationship.

Psychological interventions that address the deterioration of student-teacher relationships restore trust between students and teachers while also improving overall outcomes for students. For example, teachers with a more empathic mindset were less likely to threaten students, to assign detention, or to involve the principal.<sup>93</sup> Teachers were more likely to ask for students' perspectives and to adjust their conduct in the classroom to avoid future misbehavior.<sup>94</sup> The approaches discussed below show us how basic changes in the classroom setting can improve both the student-teacher relationship and educational outcomes for children.

### The "Wise Feedback" Intervention

The way in which teachers provide students feedback can be critical to student success. While most teachers know that feedback is necessary for a student to improve academically, many students may misinterpret critical feedback as an indication that the teacher is biased against them, particularly if the student is unfamiliar with the teacher or if, even worse, the teacher and student have had previous negative interactions. The "Wise Feedback" intervention is designed to improve communication between students and teachers in a very practical way. Researchers have found that students trust teachers more when teachers are thoughtful about how they provide critical academic feedback or "Wise Feedback". "Wise Feedback" is feedback that sets high standards for students, but assures students that they can meet those standards.<sup>95</sup>

Even seemingly simple interventions have been found to be effective. For example, in one study that tested "Wise Feedback", researchers attached to students' assignments a handwritten note from their teacher.<sup>96</sup> The first group received a note that read, "I'm giving you these comments so you'll have feedback on your paper."<sup>97</sup> Meanwhile, the second group received a note reading, "I'm giving you these comments because I have very high expectations and I know you can reach them."<sup>98</sup> While only 17 percent of students receiving the first note revised their essays, 72 percent of students receiving the second note did.<sup>99</sup> The greatest increase in revised assignments occurred among Black students who previously had the lowest rates of trust in their teachers.<sup>100</sup>



The “wise-feedback” intervention prevents students from believing that the teacher may harbor a negative bias against them by presenting students with an alternative explanation for the teacher’s statements.<sup>101</sup> The teacher’s note shows the student that the teacher believes in his or her ability to succeed in the classroom. Students frequently react to the feedback positively and work to improve their grade.<sup>102</sup> The intervention demonstrates how the inclusion of clear communication and respect can improve trust between teachers and Black students while avoiding unnecessary punitive discipline.

### The “Social Belonging” Intervention

Middle school presents an important transitional time for a student’s emotional, social and educational growth. The “Social Belonging” intervention acknowledges this reality and seeks to improve relationships between teachers and students during their first year of middle school.<sup>103</sup>

In one iteration of the “Social Belonging” intervention, researchers encouraged 7th graders to write notes to 6th graders in an attempt to quell anxieties that 6th graders might have related to attending a new school.<sup>104</sup> The notes told 6th graders that teachers would “have their back”, that “teachers are on your side,” and that, with time, the new students would come to feel at home in the new school.<sup>105</sup> The intervention was particularly important to Black students, who reported lower rates of trust in the new school and feared teachers would give them negative feedback because of negative racial stereotypes.<sup>106</sup> Black students felt more comfortable in the classroom and more able to focus on their work.<sup>107</sup> Additionally, the overall student-teacher relationship improved. The recursive dynamics between the student and teacher proved to reduce incidents of discipline beginning in 6th grade, and through the end of high school.<sup>108</sup> All in all, disciplinary incidents among Black boys fell over a seven-year period by 64%.<sup>109</sup>

Although the intervention is seemingly simple, such basic exercises can meaningfully improve the experience of Black students. The intervention focuses on individuals’ positive desires and the sources of negative behavior, how to create better behavior, and how to elicit positive interactions on the part of the teacher and the student. By appealing to both parties’ desires to be their best selves, teachers and students contribute to better overall outcomes.

### The “Empathic Discipline” Intervention

Recently, a group of University of California-Berkeley and Stanford University researchers have begun developing strategies for building strong relationships between students and teachers based on the principles of “Empathic Discipline.” They found that a one-time intervention based on these principles cut the number of school suspensions in half in five California middle schools.<sup>110</sup>

In the pilot, principles of empathic discipline were integrated through a series of interactive online exercises for middle school teachers.<sup>111</sup> Teachers were asked to read articles about discipline from students and teachers that highlighted student anxieties that contribute to student misbehavior.<sup>112</sup> Teachers first read quotations describing student fears. <sup>113</sup> In one example, a student said, “*Whenever I get a new teacher I think ‘Is she gonna treat me fairly? Does she call on the White students more? Does she expect them to know the right answers and us to get them wrong?’*”<sup>114</sup> Teachers then read articles that focused on creating growth-oriented relationships with students who misbehave.<sup>115</sup> In one example, a student said:



*One time, after I got in trouble in 7th grade, I still remember how my teacher took me aside later and listened to my side of the story. She repeated what I said back to me to be sure she understood what I was saying. Then she explained why she still had to give me a detention because I was disrupting class. Even though I still got a detention, I was glad that she didn't just dismiss what I had to say, like other teachers sometimes did. After that, I actually felt better in school because I knew I had someone to talk to.*<sup>116</sup>

As part of the intervention, teachers also read stories from other teachers describing instances in which teachers used student misbehavior as an opportunity to build positive relationships with their students.<sup>117</sup> After reading the materials, teachers wrote essays describing how they might also build positive relationships with students.<sup>118</sup> Rather than being passive participants in the intervention, teachers took on an active role, as agents of change in their approach to teaching.



One teacher wrote,

*"[To build positive relationships], I greet every student at the door with a smile every day no matter what has occurred the day before."*<sup>119</sup>

Another wrote,

*"I NEVER hold grudges. I try to remember that they are all the son or daughter of someone who loves them more than anything in the world. They are the light of someone's life!"*<sup>120</sup>

The ideas and aspirations expressed in their essays helped teachers adopt principles of empathic discipline and implement them in their classrooms.

The "Empathic Discipline" intervention has proven effective for several reasons. First, teachers gained insight into the experience of racially stigmatized students in school.<sup>121</sup> This helped teachers understand how threats can have the potential to cause misbehavior.<sup>122</sup> The exposure to student stories encouraged teachers to use discipline as an opportunity to build a relationship with the student and to cultivate a learning opportunity for that student.<sup>123</sup> Simply put, humanizing the student experience proved to help teachers see students as people who have the ability to grow and change.

In addition to dramatically reducing suspension rates, the intervention also helped students who had been previously suspended develop better relationships with their teachers and increase their sense of belonging in the school community.<sup>124</sup> Two months after the intervention, students who had been previously suspended described their teachers as more deserving of respect.<sup>125</sup>

The Empathic Discipline model is now being implemented in several school districts throughout the U.S.

#### Implications and Limitations of These Approaches

Given the severe lifetime consequences racial disparities in school discipline cause, there is an urgent need to develop concrete solutions to this problem. While the interventions discussed above have proven to be effective in initial testing, they cannot by themselves eliminate disparities in discipline.

Student-teacher relationships exist in the context of schools, which are part of school districts, which, in turn, are managed by states. Each of these institutions, through their policies and practices, affect the relationship between teachers and students. When local and state policies prioritize the criminalization of students, teachers, despite their best intentions, may have only a limited ability to eliminate disparities. For example, while the techniques discussed above may help improve the relationship between teachers and students, they do not address the conduct of SROs. As noted above, law enforcement in school contribute significantly to negative outcomes for Black students. To fully address the racial disparities, schools and local educational agencies must severely curtail, if not eliminate, the presence or, at a minimum, role of school resource officers.



Conversely, when local and state governments eliminate policies that contribute to racial disparities, it can improve educational outcomes and the experience of both students and teachers. For example, California recently amended its Education Code to eliminate a teacher's authority to suspend (grades K-3) or expel a student (grades K-12) for "disruption" and "willful defiance."<sup>126</sup> As in Texas, willful defiance has been one of the most common reasons for disciplining students in California and has significantly contributed to racial disparities in discipline between Black and White students.<sup>127</sup> The amendment may help reduce suspension rates for minor behavior, and if coupled with means for teachers and students to maintain stronger teacher-student relationships, it can mitigate racial inequality in suspension rates, as well. Both teachers and students can feel less hindered by stereotypes and more capable of reaching their respective goals in the school context.<sup>128</sup>





# Conclusion

Every year, large numbers of Black students are ushered away from the classroom into the criminal justice system. The racial disparities in school discipline continue to feed the school-to-prison pipeline, with a disproportionate number of Black youth filling our jails and prisons. New interventions with more attention directed towards student-teacher relationships and the social and psychological factors contributing to these relationships have begun to lessen the extreme levels of discipline administered to Black children. As this body of work evolves, we have the potential to contribute significantly to keeping Black children in classrooms – where they belong.

# Recommendations

## Implicit Bias

1. Require Teachers, Administrators and any other school officials that have the power to suspend, expel or otherwise discipline students to undergo training regarding implicit bias, specifically what it is, how it is created, and how it affects interactions in the educational context, including student discipline.
2. Implement interventions that reduce the effects of implicit bias in the educational context by, among other things, encouraging teachers to provide feedback, that if critical, reassures students of their ability to achieve.
3. Implement interventions that reduce the effects of implicit bias in the educational contest by, among other things, creating feelings of social belonging for all students, particularly Black students, who, due to a history of discrimination, may distrust their teachers.
4. Implement interventions that reduce the effects of implicit bias in the educational context by, among other things, encouraging teachers to respond to perceived student misbehavior with dialogue, understanding, and other empathic principles.

## Discretionary Offenses

1. Collect and publicly report data on discipline related to discretionary offenses, sortable by charge, disaggregated by race and disability status and cross-tabulated by gender.
2. Conduct an annual comprehensive review and issue a report analyzing all data regarding discretionary offenses and, if necessary, implement interventions to address racial disparities.
3. Prohibit the expulsion or prolonged out of school suspension of students for discretionary offenses.
4. Solicit and employ the feedback of affected community members, including disciplined students and their families, in the process of revising policies and practices related to the disciplining of students for discretionary offenses.
5. Implement evidence-based practices, such as School-Wide Positive Behavior Supports, shown to properly address minor misbehavior while improving school safety and academic achievement: <http://www.pbis.org>.
6. Implement early intervention programs for students who are repeatedly punished for discretionary offenses and who are at risk of being retained in their grade or dropping out of school.
7. Implement a restorative justice model for responding to discretionary offenses by students, allowing the student to be reintegrated into the educational community, as opposed to being unnecessarily excluded.
8. Provide screening of students repeatedly disciplined to ensure that the behavior is not the product of a disability. If it is, discontinue disciplining the student for such behavior and, in its place, provide an appropriate accommodation and/or appropriate mental health services.

School Resource Officers

- 1. Prohibit the use of SROs to address non-violent student code of conduct violations and other non-law enforcement related matters, and prohibit the use of SROs to assist with classroom management, including, but not limited to, responding to disruptive students.
- 2. Detail legal standards relating to stops, searches, arrests and the use of force by SROs.
- 3. Require that school officials use alternative measures to resolve a situation before involving a SRO.
- 4. Require local school districts use adequate hiring criteria for SROs, including prohibitions on the hiring or assignment of SROs that have a history of discriminatory conduct.
- 5. Require adequate training for all SROs on de-escalation and on how to effectively engage with students, including those with disabilities and of color.
- 6. Require local schools districts, their state partners, and law enforcement agencies to annually collect and publicly report use-of-force and other complaints regarding a SRO's treatment of a student.
- 7. Require local school districts and their state partners to collect and annually report for public release the number of SROs in each district, including actual enforcement officers and private security personnel, disaggregated by school level.
- 8. Require local schools districts, their state partners, and law enforcement agencies to annually collect and publicly report the number of arrests by SROs, the race and gender of students arrested, and whether they have a disability.
- 9. Require local school districts and their state partners to annually evaluate whether the presence of SROs is necessary to a legitimate educational goal, and if so, whether the goal can be satisfied by a reasonable alternative means.

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